

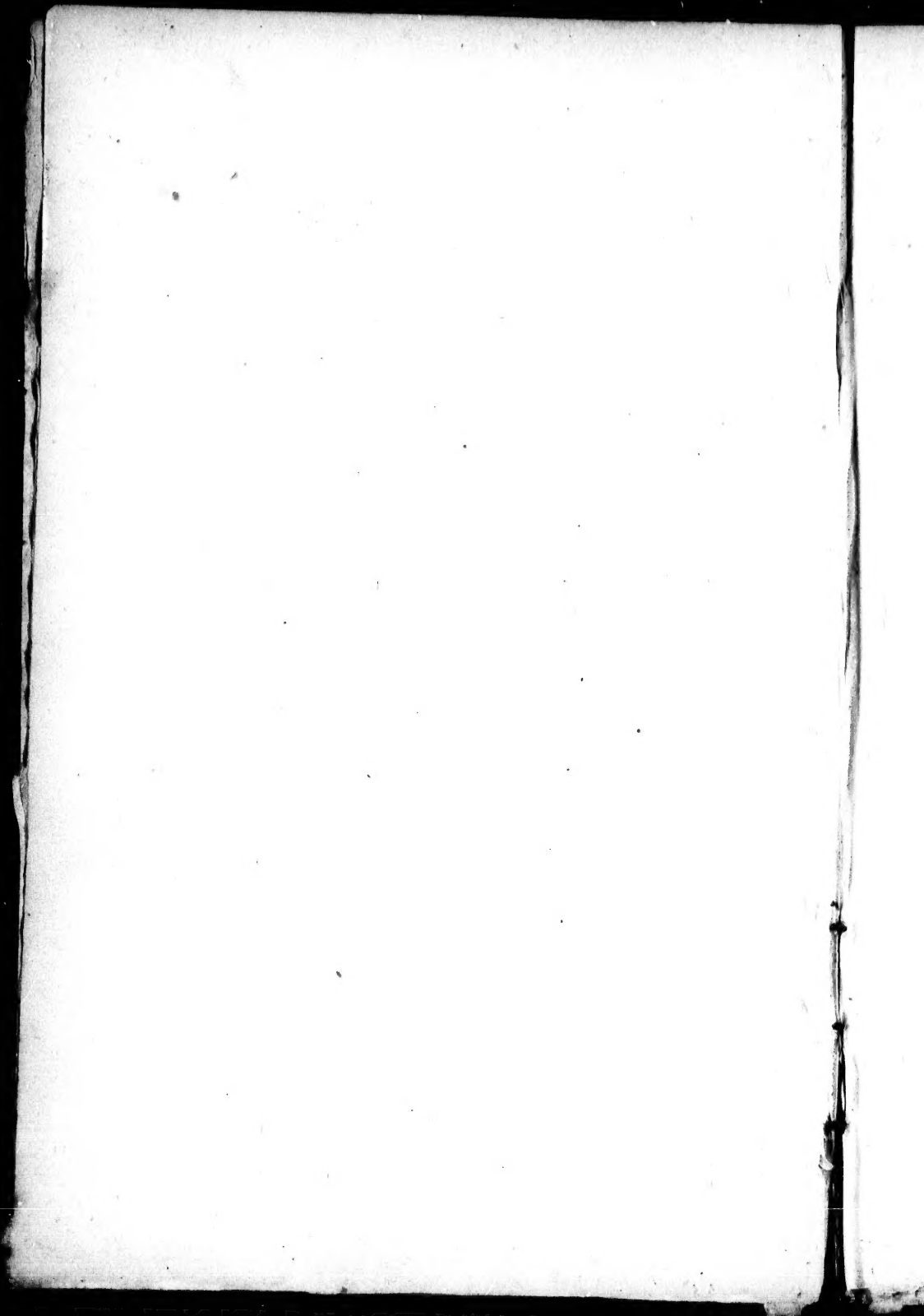


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**HISTORY OF NEW-YORK.**

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THE  
HISTORY  
OF THE LATE  
PROVINCE OF NEW-YORK,  
FROM  
ITS DISCOVERY,  
TO THE  
APPOINTMENT OF GOVERNOR COLDEN,  
IN  
1762.

BY THE HON. WILLIAM SMITH,  
Formerly of New-York, and late Chief Justice of Lower Canada.

VOL. I.



NEW-YORK:

PUBLISHED UNDER THE DIRECTION OF THE NEW-YORK  
HISTORICAL SOCIETY.

*Grafton, Print.*

1829.

SOUTHERN DISTRICT OF NEW-YORK, ss.

Be it remembered, That on the 7th day of November, A. D. 1829, in the 54th year of the Independence of the United States of America, JOHN DELAFIELD, of the said District, hath deposited in this office the title of a book, the right whereof he claims as proprietor in the words following, to wit:

*"The History of the Province of New-York, from its discovery to the appointment of Governor Colden, in 1792. By the honourable William Smith, formerly of New York, and late Chief Justice of Lower Canada. Published under the direction of the New-York Historical Society.*

In conformity to the Act of Congress of the United States, entitled "An act for the encouragement of Learning, by securing the copies of Maps, Charts, and Books, to the authors and proprietors of such copies, during the times therein mentioned." And also to an Act entitled "An Act, supplementary to an Act, entitled an Act for the encouragement of Learning, by securing the copies of Maps, Charts, and Books, to the authors and proprietors of such copies, during the times therein mentioned, and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints."

FRED. J. BETTS,

Clerk of the Southern District of New-York.

## NOTICE.

THE present volumes, now for the first time associated, contain the History of the State of New-York from its first discovery to the year 1762, by the late WILLIAM SMITH, formerly Chief Justice of Canada, with the author's last alterations and additions from the original manuscripts. On a production, a part of which has been so long before the public, and so highly appreciated, it is scarcely necessary to make any commentary. It is sufficient to observe, that had the Historical Society rendered no other service to the community than the publication of these volumes, this alone would have justified the bounty of the Legislature. But they trust that their other labours are appreciated, and hope the public will see, in these efforts, a design to fulfil the obligations to which the Society is pledged, and to enhance the character of the great State of which they are members.

The *Continuation* of the History will be found not inferior in interest or execution to the part so well known. It treats of the period between the years 1736 and 1762. The father of the historian was a conspicuous actor in these times, and the Chief Justice had the most ample means of information. The Biographical Memoir furnished by his son, the Hon. *William Smith*, of Canada, though brief, will be perused with pleasure by all who feel an interest in the circumstances of one of the most prominent public men of his day. Here is a striking coincidence in several respects, between the proposition of Smith for the government of the colonies and that of Dr. Franklin, made in the year 1754. At this early date the question of union was decided almost unanimously: the several committees appointed by the respective States having

reported thereon, the plan of Franklin was preferred, and with a few amendments was reported. By this plan the general government was to be administered by a president general appointed and supported by the crown; and a grand council to be chosen by the representatives of the people, of the several colonies met in their respective assemblies.

The author's geographical description of the early state of the colony of New-York, which originally appeared in the quarto edition of his history, is in this edition embraced as an appendix to volume first.

The State of New-York, while she does justice to her great natural resources, ought not to be indifferent to her own fame, or the reputation of her distinguished sons. These are her property, not less valuable or productive than the tolls on her canals. By making known meritorious exertions, we point out the way to farther efforts, and excite the spirit of emulation. In the present condition of affairs, this is best done by institutions like our own; individual attempts are for the most part lost and ineffectual. During the period embraced in the narrative of SMITH, this State was for a long time the chief seat of war, and on its borders was settled the title to a great part of North America. Exposed to the incursions and depredations of hostile powers, its prosperity was checked and its high destiny deferred. We are now a united people, and, under the benign influence of republican institutions, its rank is the first in the confederation.

May her example shed a salutary influence over her sister States, and may those to whom her fortunes are confided, continue to act worthy of her and of themselves.

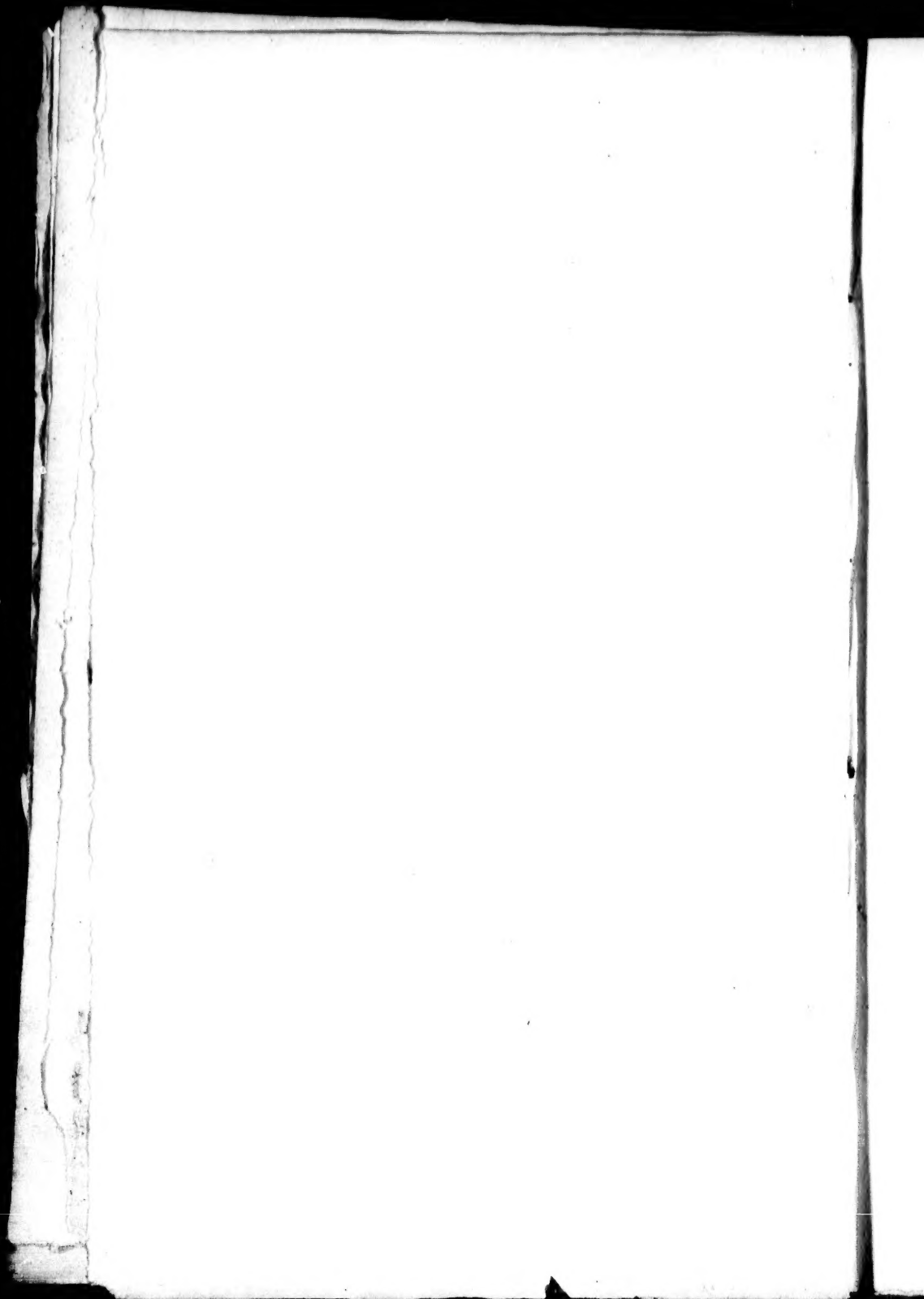
JOHN W. FRANCIS, } Committee  
JOHN DELAFIELD, } of  
DAVID HOSACK. } Publication.

*City of New-York, Nov. 16, 1829.*

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MEMOIR  
OF THE  
HONOURABLE WILLIAM SMITH,  
WRITTEN BY HIS SON.

WILLIAM SMITH was born at New-York, on the 25th of June, 1728. His father, a lawyer of eminence in that province, became a member of his majesty's council, and was afterwards appointed judge of the court of King's Bench. Judge Smith left many children, the eldest of whom is the subject of this memoir.

Mr. Smith was thus descended from a respectable family in the province, and his father perceiving he evinced considerable talent in his youth, sent him early to a grammar school at New-York. At school he was an extraordinary proficient; and when sufficiently instructed, was sent to Yale College, at New Haven, in Connecticut, where he distinguished himself so much by his learning and assiduity, that he obtained the degree of A. M. at a very early age.

He was well acquainted with the ancient writers, particularly with the Greek Philosophers, whose history he read in their native language; while he understood sufficient of the Hebrew to become familiar with many things in Rabbinical learning. He made the study of divinity a chief pursuit; and those who read what he had written on this important



subject, were astonished at his knowledge of the scriptures; while to many it appeared incredible, that one man should have acquired in a few years such variety of knowledge in matters unconnected with his immediate avocations.

He had great readiness in arithmetic, was an excellent mathematician, and in medicine was so well informed, that several eminent physicians of his native state have declared, that in answer to several questions propounded to him on this science, he had discovered great judgment, as well as minute knowledge: indeed he understood almost as much of the general principles of the healing art, as speculation without practice could enable him.

He was a devout christian, a sincere protestant, and tolerant and just to those from whom he differed most. He used constantly to worship God in his family, performing its duties always himself.

Having spent several years at college, Mr. Smith repaired to his native city, where he studied law; and after being called to the bar, he entered into a very extensive practice: he was above the mean appetite of loving money, for if he saw a cause was unjust, he would state that it was so, and if the litigant parties persisted in their respective views, he would desire them to seek another counsellor: if he found the cause doubtful, he always advised his client to compromise; when differences were referred to him, which he settled, he would receive no reward, though offered it by both parties, considering himself in these cases as a judge; observing, that "a judge ought to take no money." He was an eloquent speaker, remarkable for the soundness of his law opinions,

many of which are collected and recorded in a book by Chalmers, entitled, "Opinions of Eminent Lawyers." He was the intimate friend of Robertson the historian of America, and of many other literary characters of that day.

He was appointed a member of his majesty's council as early as the year 1769, where his attendance was regular, his integrity unquestioned, and his loyalty firm to his king; and when the lowering clouds caused by the Stamp Act, began to spread over the continent, he saw the danger likely to result from the measure, and drew up a plan of union of all his majesty's colonies, which if it had been then adopted, might have prevented the civil war that ensued, and the dismemberment of the British empire in America.

The direct tax that was devised by parliament in 1764, was the origin of the controversy: both countries resorted to the constitution for arguments in support of tenets diametrically opposite to each other: on the part of America there was a claim set up to all the rights of Englishmen; and it was inferred that no tax could be laid upon them without the consent of their assemblies. Great Britain on the other hand attempted to justify her measures by admitting the principle but denying the consequence; she contending that America was *virtually* represented by the commons of Great Britain. Mr. Smith proposed a plan of union of all the colonies friendly to the great whole, and linking them and Great Britain together by the most indissoluble ties: all requisitions for aid and supplies for general purposes, had been formerly addressed to the several provincial

assemblies; it was now proposed this should be made to the general government. It was not however intended to annihilate the assemblies, but that there should be a lord lieutenant as in Ireland, and a council of at least twenty four members, appointed by the crown or the house of commons, consisting of deputies chosen by their respective assemblies, to meet at the central province of New-York, as the parliament of North America. To this body it was proposed all the royal requisitions for aids were to be made, and they were to have authority to grant for all; to settle the quotas for each, leaving the ways and means to their separate consideration, unless in cases of default. The members of the council were to depend upon the royal pleasure, but, to preserve independency, they were to be men of fortune, and hold their places for life, with some honorable distinction to their families, as a lure to prevent the office falling into contempt.

The number of deputies was to be proportioned to the comparative weight and abilities of the colonies they represented. The two Floridas, Rhode Island, Nova Scotia, and Georgia, to have five each; New Hampshire, Maryland, North Carolina, and Quebec, each seven; South Carolina and New Jersey, each eleven; New-York, Pennsylvania, and Connecticut, each twelve; and Massachusetts Bay and Virginia, each fifteen. The whole house would thus consist of one hundred and forty-one members, a small number when the importance of the trust was considered, but to be increased when the colonies became more populous and desired it. The crown to retain its ancient negative, and the British Parliament

its legislative supremacy in all cases relative to life, liberty and property, except in the matter of taxations for general aids, or for the immediate support of the American government. A dignified government like this, it was supposed, would produce unspeakable advantages by making the colonies better known, and that it would correct the many disorders that had crept into some of the colonial constitutions, dangerous in some instances to the colonists themselves and their British creditors, and derogative of the first rights, and many of the prerogatives of the crown most friendly to peace and good order.

The minister, G. Grenville, approved of the plan, but never brought it forward in parliament; and thus things remained, until Great Britain, in 1775, determined to tax the colonies without their consent. Mr. Smith deeply deplored the contentions that afterwards took place, and long before the civil war broke out, exerted every means in his power to avert it.

General Tryon, the governor of New-York, finding it no longer safe to remain in the city, embarked on board the Dutchess of Gordon, signifying to the council that he would not meet them again in public business; leaving each member at liberty to retire where he pleased. Mr. Smith then repaired to his country seat at Haverstraw, about forty miles from New-York. He was not long there before he was summoned, 3d June, 1777, to attend the council of safety at Kingston, and being introduced before them, he was asked whether he considered himself a subject of the Independent States of America? to which he replied, that he did not conceive himself discharged from his oaths of fidelity to the crown

of Great Britain ; upon which an order was immediately made by the board, of the 7th of June, ordering him to be confined, within the manor of Livingston, where he remained until he was sent into New-York, by a flag, under the superintendence of Colonel Burr, by order of General Washington.

Mr. Smith remained at New-York till the evacuation of that city by the king's troops, and went to England with Sir Guy Carleton, the then commander-in-chief. He there remained until he was appointed Chief Justice of Canada, in 1786, and continued to hold that station until he died, on 3d December, 1793. He thus held his office as chief justice for seven years, managing the court and all proceedings in it, with singular justice. It was observed by the whole country, how much he raised its reputation ; and those who held places and offices in it, all declared, not only the impartiality of his justice, but his generosity, his vast diligence, and his great exactness in trials. It was customary before his time, that all prisoners should be brought into court, in the custody of a party of soldiers ; he disapproved of this, and established, for the first time, the appointment of constables, ordering them to be provided with their batons of office, which has been continued ever since. He was taken with a shivering fit in court, and it was succeeded by an ardent fever, which no medical skill could arrest or destroy. A day before his death, he desired one of his children to send round to the clergymen of each communion a declaration to be read in the several churches, of his firm belief in the Divinity

of his Saviour. He was buried on the 4th December, 1793, in the Episcopal church.

As a christian, he was one of the greatest patterns of the time in which he lived; and, in his public employments, either when at the bar or on the bench, was equally distinguished as a model of christian perfection.

Having thus given his history and character, it is necessary to give the relation of what was private and domestic.

William Smith was married to Miss Janet Livingston, daughter of James Livingston, esq of the city of New-York, merchant. This lady was distinguished for her disposition, eminent piety, and excellence of character. She died on the anniversary of her birth-day, in the 90th year of her age. By her he had eleven children, several of whom died young; his daughter Elizabeth, who had obtained the age of seventeen, died at Haverstraw, in 1776, in consequence of the deep interest she took in the public troubles, that then agitated the country.

His eldest son, William, who is still alive, went to England from New-York, was educated at a grammar school, at Kensington, near London, and came to Canada with his father, in 1786. He was soon appointed clerk of the provincial parliament, subsequently a master in chancery, and, in 1814, was appointed by the Earl Bathurst, then his majesty's secretary of state, a member of the executive council. He married Susan, daughter of Admiral Charles Webber, of the county of Hampshire, in England, by whom he had five children. His eldest daughter, Janet, married John Plinderhath, of Glen, in the

county of Peebles, in Scotland, who dying, left her with six children, four sons and two daughters. Three of the sons entered into the army, and were distinguished for their conduct ; one at Maida,\* and the others at Stoney Creek and Chrysler's farm, in Canada.

Their son John, who was a physician, and served under the Duke of Wellington, in the peninsular war, lost his life in the discharge of his professional duties, was buried at Coimbra, and has a monument erected to his memory in Westminster Abbey.

His second daughter, Mary, married Lieutenant General William Doyle, of Waterford, in Ireland, many years in the staff of that country as a general officer. Both are now dead. They have left two sons and one daughter, who are living.

His third daughter, Harriet, married Jonathan Dewitt, Chief Justice of the province of Lower Canada, by whom she has eleven children, several of whom are honourably settled at Quebec.

\* The battle of Maida is one of the most brilliant achievements of the British arms. See Mr. Windham's speech in the House of Commons. Annual Register. 1806.

THE

## HISTORY OF NEW-YORK.

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### PART I.

FROM THE DISCOVERY OF THE COLONY TO THE  
SURRENDER IN 1664.

CHRISTOPHER COLUMBUS, a Genoese, employed by Ferdinand and Isabel, king and queen of Castile, was the first discoverer of America.\* He sailed from St. Lucar in August, 1492, and made sight of one of the Bahama Islands, on the eleventh of October following. Newfoundland and the main continent were discovered five years after, by Sebastian Gabato, a Venetian, in the service of Henry VII. of England, from the thirty-eighth to the sixty-eighth degree of north latitude.

On the 10th of April, 1606, King James I. for planting two colonies, passed the great north and

\* Some authors allege that Columbus first offered his services to the republic of Genoa; then to John II. of Portugal, and afterwards to our King, Henry VII.; but this disagrees with Lord Bacon's account, who informs us, that Christopher Columbus sailed before his brother Bartholomew had laid the project before the king, which was owing to his falling into the hands of pirates on his way to England.



south Virginia patent. To Sir Thomas Gates, and others, leave was given to begin a plantation, at any place on the continent they should think convenient, between the thirty-fourth and forty-first degrees of latitude ; and all the lands extending fifty miles, on each side, along the coast, one hundred miles into the country, and all the islands within one hundred miles opposite to their plantations, were granted in fee, to be called the First Colony. By the same patent, a like quantity was granted to Thomas Henham, Esquire, and others, for a plantation between thirty-eight and forty-five degrees of latitude, under the name of the Second Colony. The first began a settlement in the great bay (Chesapeak) in 1607. The latter was planted at Plymouth, in New-England, 1620.

Henry Hudson, an Englishman, according to our authors, in the year 1608,\* under a commission from the king his master, discovered Long-Island, New-York, and the river which still bears his name; and afterwards sold the country, or rather his right, to the Dutch. Their writers contend that Hudson was sent out by the East-India Company in 1609, to discover a north-west passage to China ; and that having first discovered Delaware bay, he came hither, and penetrated Hudson's river as far north as the latitude of forty-three degrees. It is said, however, that there was a sale, and that the English objected to it, though they for some time neglected to oppose the Dutch settlement of the country.

In 1610, Hudson sailed again from Holland to

\* See Note A.

this country, called by the Dutch New-Netherlands; and four years after, the States General granted a patent to sundry merchants, for an exclusive trade on the North River, who, in 1614, built a fort on the west side, near Albany, which was first commanded by Henry Christiaens. Captain Argal was sent out by Sir Thomas Dale, governor of Virginia, in the same year, to dispossess the French of the two towns of Port-Royal and St. Croix, lying on each side of the Bay of Fundy, in Acadia, then claimed as part of Virginia.\* In his return he visited the Dutch on Hudson's river, who, being unable to resist him, prudently submitted for the present to the king of England, and under him to the governor of Virginia. The very next year, they erected a fort on the south-west point of the island of Manhattans, and two others in 1623; one called Good-Hope, on Connecticut river, and the other Nassau, on the east side of Delaware bay. The author of the account of New-Netherland† asserts that the Dutch purchased the lands on both sides of that river, in 1632, before the English were settled in those parts; and that they discovered a little fresh river, farther to the east, called *Varsche Riviertie*, to distinguish it from Connecticut river, known among them by the name of Varsche Rivier, which Vanderdonk also claims for the Dutch.

Determined upon the settlement of a colony, the States General made a grant of the country, in 1621,

\* Charlevoix places this transaction in 1613. Vol. I. hist. of N. France in 12mo. p. 210. But Stith, whom I follow, being a clergyman in Virginia, had greater advantages of knowing the truth than the French jesuit.

† See note B.

to the West-India Company. Wouter Van Twiller, arrived at fort Amsterdam, now New-York, and took upon himself the government, in June, 1629. His style, in the patents granted by him, was thus : " We, director and council, residing in New-Netherland, on the island Mannhattans, under the government of their high mightinesses, the Lords States General of the United Netherlands, and the privileged West-India Company." In this time the New-England planters extended their possession westward as far as Connecticut river. Jacob Van Curlet, the commissary there, protested against it, and, in the second year of the succeeding administration, under

William Kieft,\* who appears first in 1638, a prohibition was issued, forbidding the English trade at fort Good-Hope; and shortly after, on complaint of the insolence of the English, an order of council was made for sending more forces there, to maintain the Dutch territories. Dr. Mather confesses, that the New-England men first formed their design of settling Connecticut river in 1635, before which time they esteemed that river at least one hundred miles from an English settlement; and that they first seated themselves there in 1636, at Hartford, near fort Good-Hope, at Weathersfield, Windsor, and Springfield. Four years after, they seized the Dutch garrison, and drove them from the banks of the river, having first settled New-Haven in 1638, regardless of Kieft's protest against it.

\* We have no books among our Dutch records remaining in the Secretary's office, relating to state matters before Kieft's time, nor any enrolment of patents till a year after Van Twiller arrived here. Mr. Jacob Goelet supplied us with several extracts from the Dutch records.

The extent of New-Netherland was to Delaware, then called South river, and beyond it; for I find, in the Dutch records, a copy of a letter from William Kieft, May 6, 1638, directed to Peter Minuit,\* who seems, by the tenor of it, to be the Swedish governor of New-Sweden, asserting, "that the whole south river of New-Netherlands had been in the Dutch possession many years, above and below, beset with forts, and sealed with their blood :"—Which, Kieft adds, has happened even during your administration "in New-Netherland, and so well known to you."

The Dutch writers are not agreed in the extent of Nova Belgia or New-Netherland ; some describe it to be from Virginia to Canada, and others inform us that the arms of the States General were erected at Cape Cod, Connecticut, and Hudson's river, and on the west side of the entrance into Delaware bay. The author of the pamphlet mentioned in the notes gives Canada river for a boundary on the north, and calls the country, northwest from Albany, Terra Incognita.

In 1640, the English, who had overspread the eastern part of Long-Island, advanced to Oysterbay. Kieft broke up their settlement in 1642, and fitted out two sloops to drive the English out of Schuylkill, of which the Marylanders had lately possessed themselves. The instructions, dated May 22, to Jan Jansen Alpendam, who commanded in that enterprise, are upon record, and strongly assert the right of the Dutch both to the soil and trade there. The English from the eastward shortly after sent deputies to New-Amsterdam, for the accommodation of their

disputes about limits, to whom the Dutch offered the following conditions, entered in their books exactly in these words.

"*Condiçiones à D. Directore Gen. senatuyz Novi Belgii, Dominis e Wytingh atque Hill, Delegatis à nobili Senatu Hartfordiensi, oblatae :*

"*Pro agro nostro Hartfordiensi, annuo persolvent Præpotentiff D. D. Ordinibus Fœd. Provinciarum Belgicarum aut eorum vicariis, decimam partem reventus agrorum, tum aratro tum ligone, aliove cultorum medio; pomariis, hortisq: oleribus dicatis, jugerum Hollandium non excedentibus exceptis; aut decimarum loco, pretium nobile postea constituendum, tam diu quàm diu possessores ejusdum agri futuri erunt. Actum in arce Amstelodamensi in novo Belgio, Die Julii 9, Anno Christi 1642."*

We have no account that the English acceded to these proposals, nor is it probable, considering their superior strength, that they ever did: on the contrary they daily extended their possessions, and, in 1643, the colonies of the Massachusetts Bay, Plymouth, Connecticut and New-Haven entered into a league both against the Dutch and Indians, and grew so powerful as to meet shortly after, upon a design of extirpating the former. The Massachusetts Bay declined this enterprise, which occasioned a letter to Oliver Cromwell from William Hooke, dated at New Haver, November 3, 1653, in which he complains of the Dutch, for supplying the natives with arms and ammunition, begs his assistance with two or three frigates, and that letters might be sent to the eastern colonies, commanding them to join in an expedition against the Dutch colony, Oliver's affairs

would not admit of so distant an attempt;\*—but Richard Cromwell afterwards drew up instructions to his commanders for subduing the Dutch here, and wrote letters to the English American governments for their aid—copies of which are preserved in Thurloe's Collection, vol. I. p. 721, &c.

Peter Stuyvesant was the last Dutch governor; and though he had a commission in 1646, he did not begin his administration till May 27, 1647.—The inroads and claims upon his government kept him constantly employed. New-England on the east, and Maryland on the west, alarmed his fears by their daily increase; and about the same time captain Forrester, a Scotchman, claimed Long-Island for the dowager of Stirling. The Swedes too were encroaching upon Delaware: through the unskilfulness of the mate, one Deswyck, a Swedish captain and supercargo, arrived in Raritan river; the ship was seized, and himself made a prisoner at New-Amsterdam. Stuyvesant's reasons were these:—In 1651, the Dutch built fort Casimir, now called Newcastle, on Delaware. The Swedes, indeed, claimed the country, and Printz their governor formally protested against the works. Risingh, his successor, under the disguise of friendship, came before the fortress, fired two salutes, and landed thirty men, who were entertained by the commandant as friends; but he had no sooner discovered the weakness of the garrison, than he made himself master of it, seizing also upon all the ammunition, houses, and other effects of the West-India Company, and com-

See note D.

pling several of the people to swear allegiance to Christina, queen of Sweden. The Dutch, in 1655, prepared to retake fort Casimir. Stuyvesant commanded the forces in person, and arrived with them in Delaware the 9th of September. A few days after, he anchored before the garrison, and landed his troops. The fortress was immediately demanded as Dutch property: Suen Scutz, the commandant, desired leave to consult Risingh, which being refused, he surrendered the 16th of September, on articles of capitulation. The whole strength of the place consisted of four cannon, fourteen pounders, five swivels, and a parcel of small arms, which were all delivered to the conqueror. Fort Christini was commanded by Risingh. Stuyvesant came before it, and Risingh surrendered it upon terms the twenty-fifth of September. The country being thus subdued, the Dutch governor issued a proclamation in favour of such of the inhabitants as would submit to the new government, and about thirty Swedes swore "fidelity and obedience to the States General, the lords directors of the West-India Company, their subalterns of the province of New-Netherlands, and the director general then, or thereafter, to be established." Risingh and one Elswych, a trader of note, were ordered to France or England, and the rest of the Swedish inhabitants to Holland, and from thence to Gottenberg. The Swedes being thus extirpated, the Dutch became possessed of the west side of Delaware bay, now called the three lower counties.

This country was afterwards under the command of lieutenant governors, subject to the control of, and commissioned by, the director general at New-

Amsterdam. Johan Paul Jaquet was the first vice-director, or lieutenant governor, of South River.—His successors were Alricks Hinojossa, and William Beekman. The posterity of the last remains amongst us to this day. These lieutenants had power to grant lands, and their patents make a part of the ancient titles of the present possessors. Alrick's commission, of the twelfth of April 1657, shows the extent of the Dutch claim on the west side of Delaware at that time. He was appointed "director-general of the colony of the South River of New-Netherlands, and the fortress of Casimir, now called Niewer Amstel, with all the lands depending thereon, according to the first purchase and deed of release of the natives, dated July 19, 1651, beginning at the west side of the Minquaa, or Christina Kill, in the Indian language named Suspecough, to the mouth of the bay or river called Bomp-hook, in the Indian language Cannaresse; and so far inland as the bounds and limits of the Minquaas' land, with all the streams, &c. appurtenances, and dependencies." Of the country northward of the Kill, no mention is made. Orders, in 1658, were given to William Beekman to purchase cape Hinlopen from the natives, and to settle and fortify it, which, for want of goods, was not done till the succeeding year.

In the year 1659, fresh troubles arose from the Maryland claim to the lands on South river; and in September colonel Nathaniel Utie, as commissioner from Fendal, lord Baltimore's governor, arrived at Niewer Amstel, from Maryland. The country was ordered to be evacuated, lord Baltimore claiming all



the land between thirty-eight and forty degrees of latitude, from sea to sea. Beekman and his council demanded evidence of his lordship's right, and offered to prove the States General's grant to the West-India Company, theirs to them, payment for the land, and possession; and upon the whole, proposed to refer the controversy to the republics of England and Holland, praying at the same time, three weeks to consult Stuyvesant, the general. The commissioner, notwithstanding, a few days after, warned him to draw off beyond the latitude of forty degrees; but Beekman disregarded the threat. Colonel Utie thereupon returned to Maryland, and an immediate invasion was expected.

Early in the spring of the year 1660, Nicholas Varleth, and Brian Newton, were despatched from fort Amsterdam to Virginia, in quality of ambassadors, with full power to open a trade, and conclude a league offensive and defensive against the barbarians. William Berckly, the governor, gave them a kind reception, and approved their proposal of peace and commerce, which Sir Henry Moody was sent here to agree upon and perfect. Four articles to that purpose were drawn up and sent to the governor for confirmation. Stuyvesant artfully endeavoured, at this treaty, to procure an acknowledgment of the Dutch title to the country, which Berckly as carefully avoided. This was his answer:

*"Sir: I have received the letter you were pleased to send me, by Mr. Mills, his vessel, and shall be ever ready to comply with you in all acts of neighbourly friendship and amity. But truly sir you*

desire me to do that, concerning your titles and claims to land in this northern part of America, which I am in no capacity to do; for I am but a servant of the Assembly: neither do they arrogate any power to themselves, farther than the miserable distractions of England force them to. For when God shall be pleased in his mercy to take away and dissipate the unnatural divisions of their native country, they will immediately return to their own professed obedience. What then they should do in matters of contract, donation, or confession of right, would have little strength or signification; much more presumptive and impertinent would it be in me to do it without their knowledge or assent. We shall very shortly meet again, and then, if to them you signify your desires, I shall labour all I can to get you a satisfactory answer.

"I am, sir,

"Your humble servant,

"WILLIAM BERCKLY.

*"Virginia, August 20, 1660."*

Governor Stuyvesant was a faithful servant of the West-India Company: this is abundantly proved by his letters to them, exciting their care of the colony. In one, dated April 20, 1660, which is very long and pathetic, representing the desperate situation of affairs on both sides of New-Netherland, he writes, "Your honors imagine that the troubles in England will prevent any attempt on these parts: alas! they are ten to one in number to us, and are able without any assistance, to deprive us of the country when they please." On the twenty-fifth of June, the same

year, he informs them, "that the demands, encroachments, and usurpations of the English, gave the people here great concern. The right to both rivers, says he, by purchase and possession, is our own, without dispute. We apprehend that they, our more powerful neighbours, lay their claims under a royal patent, which we are unable hitherto to do in your name."\* Colonel Utie being unsuccessful the last year in his embassy for the evacuation of the Dutch possessions on Delaware, lord Baltimore, in the autumn of 1660, applied by captain Neal, his agent, to the West-India Company, in Holland, for an order on the inhabitants of South river to submit to his authority, which they absolutely refused, asserting their right to that part of their colony.

The English, from New-England, were every day encroaching upon the Dutch. The following letter, from Stuyvesant to the West-India Company, dated July 21, 1661, shows the state of the colony at that time, on both sides: "We have not yet begun the fort on Long-Island, near Oysterbay, because our neighbours lay the boundaries a mile and a half more westerly than we do, and the more as your honors, by your advice of December 24th, are not inclined to stand by the treaty of Hartford, and propose to sue for redress on Long-Island and the Fresh Water river, by means of the States' ambas-

\* If we should argue from this letter, that the West-India Company had no grants of the New-Netherlands from the States General, as some suppose, we discredit De Laet's history, dedicated to the States in 1624, as well as all the Dutch writers, and even Stuyvesant himself, who, in his letter to Richard Nicolls, at the surrender, asserts, that they had a grant, and showed it under seal to the English deputies. But the genuine construction of the Dutch governor's letter, is this, that in 1660, he had not the patent to the West-India Company, to lay before the English in America, who disputed the Dutch right to this country.

sador. Lord Sterling is said to solicit a confirmation of his right to all Long-Island, and importunes the present king to confirm the grant made by his royal father, which is affirmed to be already obtained. But more probable, and material, is the advice from Maryland, that lord Baltimore's patent, which contains the south part of South River, is confirmed by the king, and published in print; that lord Baltimore's natural brother, who is a rigid papist, being made governor there, has received lord Baltimore's claim and protest to your honors in council, (where-with he seems but little satisfied,) and has now more hopes of success. We have advice from England, that there is an invasion intended against these parts, and the country solicited of the king, the duke and the parliament, is to be annexed to their dominions; and, for that purpose, they desire three or four frigates, persuading the king that the company possessed and held this country under an unlawful title, having only obtained of king James leave for a watering place on Staten-Island, in 1623."

In August, 1663, a ship arrived from Holland at South river, with new planters, ammunition, and implements of husbandry. Lord Baltimore's son landed a little after, and was entertained by Beekman at Niewer Amstel. This was Charles, the son of Cecilius, who, in 1661, had procured a grant and confirmation of the patent passed in favour of his father in 1632. The papistical principles of the Baltimore family, the charge of colonizing, the parliamentary war with Charles I. and Oliver's usurpation, all conspired to impede the settlement of Maryland, till the year 1661; and these considerations

account for the extension of the Dutch limits on the west side of Delaware bay.

While the Dutch were contending with their European neighbours, they had the art always to maintain a friendship with the natives, until the war which broke out this year with the Indians at Esopus, now Ulster county. It continued, however, but a short season. The Five Nations never gave them any disturbance, which was owing to their continual wars with the French, who settled at Canada in 1603. I have before observed, that Oliver Cromwell was applied to for his aid in the reduction of this country, and that his son Richard took some steps towards accomplishing the scheme; the work was however reserved for the reign of Charles II. an indolent prince, and entirely given up to pleasure, who was driven to it, more perhaps by the differences then subsisting between England and Holland, than by any motive that might reflect honor upon his prudence, activity, and public spirit. Before this expedition, the king granted a patent on the twelfth of March, 1664, to his brother the duke of York and Albany, for sundry tracts of land in America, the boundaries of which, because they have given rise to important and animated debates, it may not be improper to transcribe :

“All that part of the main land of New-England, beginning at a certain place, called or known by the name of St. Croix, next adjoining to New Scotland, in America, and from thence extending along the sea-coast, unto a certain place called Pemaquie, or Pemequid, and so up the river thereof, to the furthest head of the same, as it tendeth northward ;

extending from thence to the river of Kimbequin, and so upwards, by the shortest course, to the river Canada, northward; and also all that island, or islands, commonly called by the several name or names of Meitewacks, or Long-Island, situate and being towards the west of Cape Cod and the narrow Higansetts, abutting upon the main land between the two rivers there called or known by the several names of Connecticut and Hudson's river, together also with the said river called Hudson's river, and all the land from the west side of Connecticut river to the east side of Delaware bay, and also all those several islands, called or known by the names of Martin's vineyard, or Nantuck's, or otherwise Nantucket: together, &c."

Part of this tract was conveyed by the duke to John lord Berkley, baron of Stratton, and Sir George Carteret, of Saltrum in Devon, who were then members of the king's council. The lease was for the consideration of ten shillings, and dated the twenty-third of June, 1664. The re-lease, dated the next day, mentions no particular sum of money, as a consideration for the grant of the lands, which have the following description:

"All that tract of land, adjacent to New-England, and lying and being to the westward of Long-Island, and bounded on the east part by the main sea and partly by Hudson's river; and hath upon the west Delaware bay or river, and extendeth southward to the main as far as Cape May, at the mouth of Delaware bay: and to the northward, as far as the northernmost branch of the said bay or river of Delaware, which is forty-one degrees and

forty minutes of latitude : which said tract of land is hereafter to be called by the name or names of Nova Cæsarea, or New-Jersey."

The New-Netherlands became divided into New-Jersey, so called after the isle of Jersey, in compliment to Sir George Carteret, whose family came from thence ; and New-York, which took its name in honour of the duke of York.

The Dutch inhabitants, by the vigilance of their governor, were not unapprised of the designs of the English court against them, for their records testify that on the eighth of July, "the general received intelligence from one Thomas Willet, an Englishman, that an expedition was preparing in England against this place, consisting of two frigates of forty and fifty guns, and a fly boat of forty guns, having on board three hundred soldiers, and each frigate one hundred and fifty men, and that they then lay at Portsmouth waiting for a wind." News arrived also from Boston, that they had already set sail. — The burgomasters were thereupon called into council ; the fortress ordered to be put into a posture of defence ; and spies sent to Milford and Westchester for intelligence. Boston was in the secret of the expedition, for the general court had, in May preceding, passed a vote for a supply of provisions, towards refreshing the ships on their arrival. They were four in number, and resolved to rendezvous at Gardener's Island in the sound, but parted in a fog about the twentieth of July. Richard Nicolls and Sir George Carteret, two of the commissioners, were on board the Guyny, and fell in first with Cape Cod. The winds having blown from the south-west, the

other ships, with sir Robert Carr and Mr. Maverick, the remaining commissioners, were rightly concluded to be driven to the eastward. After despatching a letter to Mr. Winthrop, the governor of Connecticut, requesting his assistance, colonel Nicolls proceeded to Nantasket, and thence to Boston. The other ships got into Piscataway. John Endicot, a very old man, was then governor of Boston, and incapable of business. The commissioners, therefore, had a conference with the council, and earnestly implored the assistance of that colony. Colonel Nicolls and Sir George Carteret, in their letter from Boston, to Sir H. Bennet, secretary of state, complain much of the backwardness of that province. The reasons urged in their excuse, were poverty and the season, it being the time of harvest; but perhaps disaffection to the Stuart family, whose persecuting fury had driven them from their native country, was the true spring of their conduct. The king's success in the reduction of the Dutch, evidently opened him a door, to come at his enemies in New-England, who were far from being few;\* and whether this consideration might not have given rise to the project itself, I leave to the conjectures of others.

On the 27th of July, Nicolls and Carteret made a formal request in writing. "That the government of Boston would pass an Act to furnish them with

\* T. Dixwel, Esq. one of Charles I.'s judges, and excepted out of the general pardon, lived many years at New-Haven, (incog.) in quality of a country merchant: Sir Edmond Andross, in one of his tours through the colony of Connecticut, saw him there at church, and strongly suspected him to be one of the regicides. In his last illness, he revealed himself to the minister of the town, and ordered a small stone to be set at the head of his grave, which I have often seen there, inscribed, T. D. Esq. While at New-Haven, he went under the name of John Davis.



armed men, who should begin their march to the **Manhattans**, on the twentieth of August ensuing, and promised, that if they could get other assistance, they would give them an account of it." The governor and council answered, that they would assemble the general court, and communicate the proposal to them.

From Boston, a second letter was written to governor Winthrop, in Connecticut, dated the twenty-ninth of July, in which he was informed, that the other ships were then arrived, and would sail with the first fair wind, and he was desired to meet them at the west end of Long-Island.

One of the ships entered the bay of the North River several days before the rest ; and as soon as they were all come up, Stuyvesant sent a letter dated the 19th-30th of August, at fort Anill, directed to the commanders of the English frigates, by John Declyer, one of the chief council ; the Rev. John Megapolensis, minister ; Paul Lunder Vander Grilft, Major ; and Mr. Samuel Megapolensis, doctor in physic, with the utmost civility, to desire the reason of their approach, and continuing in the harbor of the Naijarlij, without giving notice to the Dutch, which (he writes) they ought to have done. Colonel Nicolls answered the next day with a summons :

*"To the honourable the Governors and Chief Council at the Manhattans.*

*" Right worthy Sirs :* I received a letter by some worthy persons intrusted by you, bearing date the 19th-30th of August, desiring to know the intent of the approach of the English frigates ; in return of which, I think it fit to let you know, that his majesty

of Great Britain, whose right and title to these parts of America is unquestionable, well knowing how much it derogates from his crown and dignity, to suffer any foreigners, how nearsoever they be allied, to usurp a dominion, and, without his majesty's royal consent, to inhabit in these or any other of his majesty's territories, hath commanded me, in his name, to require a surrender of all such forts, towns, or places of strength, which are now possessed by the Dutch, under your commands ; and in his majesty's name, I do demand the town, situate on the island, commonly known by the name of Manhatoes, with all the forts thereunto belonging, to be rendered unto his majesty's obedience and protection, into my hands. I am further commanded to assure you, and every respective inhabitant of the Dutch nation, that his majesty being tender of the effusion of christian blood, doth by these presents, confirm and secure to every man his estate, life and liberty, who shall readily submit to his government. And all those who shall oppose his majesty's gracious intention, must expect all the miseries of a war, which they bring upon themselves. I shall expect your answer by these gentlemen, colonel George Carteret, one of his majesty's commissioners in America ; captain Robert Needham, captain Edward Groves, and Mr. Thomas Delavall, whom you will entertain with such civility as is due to them, and yourselves, and yours shall receive the same, from, worthy sirs,

Your very humble servant,

RICHARD NICOLLS.

*Dated on board his majesty's ship, the Guymy,  
riding before Natch, August 20-31, 1664."*

Mr. Stuyvesant promised an answer to the summons the next morning, and in the mean time convened the council and burgomasters. The Dutch governor was a good soldier, and had lost a leg in the service of the States. He would willingly have made a defence ; and refused a sight of the summons, both to the inhabitants and burgomasters, lest the easy terms offered, might induce them to capitulate. The latter, however, insisted upon a copy, that they might communicate it to the late magistrates and principal burghers. They called together the inhabitants at the Stadt-House, and acquainted them with the governor's refusal. Governor Winthrop at the same time wrote to the director and his council, strongly recommending a surrender. On the twenty-second of August, the burgomasters came again into council, and desired to know the contents of the English message from governor Winthrop, which Stuyvesant still refused. They continued their importunity ; and he, in a fit of anger, tore it to pieces : upon which, they protested against the act, and all its consequences. Determined upon a defence of the country, Stuyvesant wrote a letter in answer to the summons, which, as it is historical of the Dutch claim, will doubtless be acceptable to the reader. The following is an exact transcript of the record :

*" My lords :* Your first letter, unsigned, of the 20-31st of August, together with that of this day, signed according to form, being the first of September, have been safely delivered into our hands by your deputies, unto which we shall say, that the rights of his majestie of England, unto any part of America

here about, amongst the rest, unto the colonies of Virginia, Maryland, or others in New-England, whether disputable or not, is that which, for the present, we have no design to debate upon. But that his majestie hath an indisputable right to all the lands in the north parts of America, is that which the kings of France and Spain will disallow, as we absolutely do, by virtue of a commission given to me, by my lords, the high and mighty States General, to be governor-general, over New-Holland, the isles of Curacoa, Bonaire, Aruba, with their appurtenances and dependancies, bearing date the twenty-sixth of July, 1646. As also by virtue of a grant and commission, given by my said lords, the high and mighty States General, to the West-India Company, in the year 1621, with as much power and as authentic, as his said majestie of England hath given, or can give, to any colony in America, as more fully appears by the patent and commission of the said lords the States General, by them signed, registered, and sealed with their great seal, which were showed to your deputyes, colonel George Carteret, captain Robert Needham, captain Edward Groves, and Mr. Thomas Delavall; by which commission and patent together, (to deal frankly with you,) and by divers letters, signed and sealed by our said lords, the States General, directed to several persons, both English and Dutch, inhabiting the towns and villages on Long-Island, (which, without doubt, have been produced before you, by those inhabitants,) by which they are declared and acknowledged to be their subjects, with express command, that they continue faithful unto them, under penalty of incurring their utmost displeasure, which

makes it appear more clear than the sun at noon-day, that your first foundation, (viz. that the right and title of his majestie of Great Britain, to these parts of America is unquestionable,) is absolutely to be denied. Moreover, it is without dispute, and acknowledged by the world, that our predecessors, by virtue of the commission and patent of the said lords, the States General, have without control, and peaceably (the contrary never coming to our knowledge) enjoyed Fort Orange about forty-eight or fifty years, the Mannhattans about forty-one or forty-two years, the South River forty years, and the Fresh Water River about thirty-six years. Touching the second subject of your letter, (viz. his majestie hath commanded me, in his name, to require a surrender of all such forts, towns, or places of strength, which now are possessed by the Dutch under your command). We shall answer, that we are so confident of the discretion and equity of his majestie of Great Britain, that in case his majestie were informed of the truth, which is, that the Dutch came not into these provinces, by any violence, but by virtue of commissions from my lords, the States General, first of all in the years 1614, 1615, and 1616, up the North River, near Fort Orange, where, to hinder the invasions and massacres, commonly committed by the savages, they built a little fort; and after, in the year 1622, and even to this present time, by virtue of commission and grant, to the governors of the West-India Company; and moreover, in the year 1656, a grant to the honourable the burgomasters of Amsterdam, of the South River; insomuch, that by virtue of the above said commissions from the high

and mighty States General, given to the persons interested as aforesaid, and others, these provinces have been governed, and consequently enjoyed, as also in regard of their first discovery, uninterrupted possessions, and purchase of the lands of the princes, natives of the country, and other private persons (though Gentiles), we make no doubt that if his said majestie of Great Britain were well informed of these passages, he would be too judicious to grant such an order, principally in a time when there is so straight a friendship and confederacy, between our said lords and superiors, to trouble us in the demanding and summons of the places and fortresses, which were put into our hands, with order to maintain them, in the name of the said lords, the States General, as was made appear to your deputies, under the names and seal of the said high and mighty States General, dated July 28, 1646. Besides what had been mentioned, there is little probability that his said majestie of England (in regard the articles of peace are printed, and were recommended to us to observe seriously and exactly, by a letter written to us by our said lords, the States General, and to cause them to be observed religiously in this country) would give order touching so dangerous a design, being also so apparent, that none other than my said lords, the States General, have any right to these provinces, and consequently, ought to command and maintain their subjects; and in their absence, we, the governor-general, are obliged to maintain their rights, and to repel and take revenge of all threatenings, unjust attempts, or any force whatsoever, that shall be committed against their faithful

subjects and inhabitants, it being a very considerable thing, to affront so mighty a state, although it were not against an ally and confederate. Consequently, if his said majestie (as it is fit) were well informed of all that could be spoken upon this subject, he would not approve of what expressions were mentioned in your letter; which are, that you are commanded by his majestie, to demand in his name, such places and fortresses as are in the possession of the Dutch under my government; which, as it appears by my commission before mentioned, was given me by my lords, the high and mighty States General. And there is less ground in the express demand of my government, since all the world knows, that about three years agoe, some English frigotts being on the coast of Africa, upon a pretended commission, they did demand certain places under the government of our said lords, the States General, as Cape Vert, river of Gambo, and all other places in Guyny, to them belonging. Upon which, our said lords, the States General, by virtue of the articles of peace, having made appear the said attempt to his majestie of England, they received a favourable answer, his said majestie disallowing all such acts of hostility as might have been done, and besides, gave order that restitution should be made to the East-India Company, of whatsoever had been pillaged in the said river of Gambo; and likewise restored them to their trade, which makes us think it necessary that a more express order should appear unto us, as a sufficient warrant for us, towards my lords, the high and mighty States General, since by virtue of our said commission, we do in these pro-

vinces, represent them, as belonging to them, and not to the king of Great Britain, except his said majestie, upon better grounds, make it appear to our said lords, the States General, against which they may defend themselves as they shall think fit. To conclude : we cannot but declare unto you, though the governors and commissioners of his majestie have divers times quarrelled with us about the bounds of the jurisdiction of the high and mighty the States General, in these parts, yet they never questioned their jurisdiction itself; on the contrary, in the year 1650, at Hartford, and the last year at Boston, they treated with us upon this subject, which is a sufficient proof that his majestie hath never been well informed of the equity of our cause, insomuch as we cannot imagine, in regard of the articles of peace between the crown of England and the States General, (under whom there are so many subjects in America as well as Europe,) that his said majestie of Great Britain would give a commission to molest and endamage the subjects of my said lords, the States General, especially such, as ever since fifty, forty, and the latest thirty-six years, have quietly enjoyed their lands, countries, forts, and inheritances ; and less, that his subjects would attempt any acts of hostility or violence against them : and in case that you will act by force of arms, we protest and declare, in the name of our said lords, the States General, before God and men, that you will act an unjust violence, and a breach of the articles of peace, so solemnly sworn, agreed upon, and ratified by his majestie of England, and my



lords, the States General, and the rather, for that to prevent the shedding of blood, in the month of February last, we treated with Captain John Scott, (who reported he had a commission from his said majestie,) touching the limits of Long-Island, and concluded for the space of a year; that in the mean time, the business might be treated on between the king of Great Britain and my lords, the high and mighty States General: and again, at present, for the hindrance and prevention of all differences, and the spilling of innocent blood, not only in these parts, but also in Europe, we offer unto you, a treaty by our deputies, Mr. Cornelius Van Ruyven, secretary and receiver of New-Holland, Cornelius Steenwick, burgomaster, Mr. Samuel Megapolensis, doctor of physick, and Mr. James Cousseau, heretofore sheriff. As touching the threats in your conclusion, we have nothing to answer, only that we fear nothing but what God (who is as just as merciful,) shall lay upon us; all things being in his gracious disposall, and we may as well be preserved by him with small forces as by a great army, which makes us to wish you all happiness and prosperity, and recommend you to his protection. My lords, your thrice humble and affectionate servant and friend, signed P. Stuyvesant.—At the fort at Amsterdam, the second of September, new stile, 1664.”

While the Dutch governor and council were contending with the burgomasters and people in the city, the English commissioners published a proclamation\* in the country, encouraging the inhabitants

\* See Note E.

to submit, and promising them the king's protection, and all the privileges of subjects; and as soon as they discovered by Stuyvesant's letter, that he was averse to the surrender, officers were sent to beat up for volunteers in Middleborough, Ulisson, Jamaica, and Hempstead. A warrant was also issued to Hugh Hide, who commanded the squadron, to prosecute the reduction of the fort; and an English ship then trading here was pressed into the service. These preparations induced Stuyvesant to write another letter, on the 25<sup>th</sup> of August, old style, wherein, though he declares that he would stand the storm, yet to prevent the spilling of blood, he had sent John De Decker, counsellor of state, Cornelius Van Riven, secretary and receiver, Cornelius Steenwyck, major, and James Cousseau, sheriff, to consult, if possible, an accommodation. Nicolls, who knew the disposition of the people, answered immediately from Gravesend, that he would treat about nothing but a surrender. The Dutch governor, the next day, agreed to a treaty and surrender, on condition the English and Dutch limits in America, were settled by the crown and the States General. The English deputies were Sir Robert Carr, George Carteret, John Winthrop, governor of Connecticut, Samuel Willys, one of the assistants or council of that colony, and Thomas Clarke and John Pynchon, commissioners from the general court of the Massachusetts Bay, who, but a little before, brought an aid from that province. What these persons agreed upon, Nicolls promised to ratify. At eight o'clock in the morning of the 27th of August, 1664, the commissioners, on both sides, met at the Governor's

Farm, and there signed the following articles of capitulation :

“ These articles following were consented to by the persons here-under subscribed, at the Governor’s Bowery, August the 27th, old style, 1664.

“ I. We consent, that the States General, or the West-India Company, shall freely enjoy all farms and houses (except such as are in the forts) and that within six months, they shall have free liberty to transport all such arms and ammunition, as now does belong to them, or else they shall be paid for them.

“ II. All publique-houses shall continue for the uses which they are for.

“ III. All people shall still continue free denizens, and shall enjoy their lands, houses, goods, where-soever they are within this country, and dispose of them as they please.

“ IV. If any inhabitant have a mind to remove himself, he shall have a year and six weeks from this day, to remove himself, wife, children, servants, goods, and to dispose of his lands here.

“ V. If any officer of state, or publique minister of state, have a mind to go for England, they shall be transported fraught free, in his Majesty’s frigotts, when these frigotts shall return thither.

“ VI. It is consented to, that any people may freely come from the Netherlands, and plant in this colony, and that Dutch vessels may freely come hither, and any of the Dutch may freely return

home, or send any sort of merchandise home, in vessels of their own country.

"VII. All ships from the Netherlands, or any other place, and goods therein, shall be received here, and sent hence, after the manner which formerly they were before our coming hither, for six months next ensuing.

"VIII. The Dutch here shall enjoy the liberty of their consciences in divine worship and church discipline.

"IX. No Dutchman here, or Dutch ship here, shall upon any occasion, be pressed to serve in war against any nation whatsoever.

"X. That the townsmen of the Mannhattans, shall not have any soldiers quartered upon them, without being satisfied and paid for them by their officers, and that at this present, if the fort be not capable of lodging all the soldiers, then the burgo-masters, by their officers, shall appoint some houses capable to receive them.

"XI. The Dutch here shall enjoy their own customs concerning their inheritances.

"XII. All publique writings and records, which concern the inheritances of any people, or the reglement of the church or poor, or orphans, shall be carefully kept by those in whose hands now they are, and such writings as particularly concern the States General, may at any time be sent to them.

"XIII. No judgment that has passed any judicature here, shall be called in question, but if any conceive that he hath not had justice done him, if he apply himself to the States General, the other party shall be bound to answer for the supposed injury.

"XIV. If any Dutch living here shall at any time desire to travaile or traffique into England, or any place, or plantation, in obedience to his majesty of England, or with the Indians, he shall have (upon his request to the governor) a certificate that he is a free denizen of this place, and liberty to do so.

"XV. If it do appeare, that there is a publique engagement of debt, by the town of the Manhatoes, and a way agreed on for the satisfying of that engagement, it is agreed, that the same way proposed shall go on, and that the engagement shall be satisfied.

"XVI. All inferior civil officers and magistrates shall continue as now they are, (if they please,) till the customary time of new elections, and then new ones to be chosen by themselves, provided that such new chosen magistrates shall take the oath of allegiance to his majesty of England before they enter upon their office.

"XVII. All differences of contracts and bargains made before this day, by any in this country, shall be determined according to the manner of the Dutch.

"XVIII. If it do appeare, that the West-India Company of Amsterdam, do really owe any sums of money to any persons here, it is agreed that recognition and other duties payable by ships going for the Netherlands, be continued for six months longer.

"XIX. The officers military, and soldiers, shall march out with their arms, drums beating, and colours flying, and lighted matches; and if any of them will plant, they shall have fifty acres of land

set out for them; if any of them will serve as servants, they shall continue with all safety, and become free denizens afterwards.

"XX. If, at any time hereafter, the king of Great Britain and the States of the Netherland do agree that this place and country be re-delivered into the hands of the said States, whensoever his majestie will send his commands to re-deliver it, it shall immediately be done.

"XXI. That the town of Manhattans shall choose deputyes, and those deputyes shall have free voyces in all publique affairs, as much as any other deputyes.

"XXII. Those who have any property in any houses in the fort of Aurania, shall (if they please) slight the fortifications there, and then enjoy all their houses as all people do where there is no fort.

"XXIII. If there be any soldiers that will go into Holland, and if the Company of West-India in Amsterdam, or any private persons here will transport them into Holland, then they shall have a safe passport from colonel Richard Nicolls, deputy-governor under his royal highness, and the other commissioners, to defend the ships that shall transport such soldiers, and all the goods in them, from any surprisal or acts of hostility, to be done by any of his majestie's ships or subjects. That the copies of the king's grant to his royal highness, and the copy of his royal highness's commission to colonel Richard Nicolls, testified by two commissioners more, and Mr. Winthrop, to be true copies, shall be delivered to the honourable Mr. Stuyvesant, the present governor, on Monday next, by eight of the clock in the morning, at the Old Miln, and these articles

consented to, and signed by colonel Richard Nicolls, deputy-governor to his royal highness, and that within two hours after the fort and town called New-Amsterdam, upon the isle of Manhatoes, shall be delivered into the hands of the said colonel Richard Nicolls, by the service of such as shall be by him thereunto deputed, by his hand and seal.

JOHN DE DECKER.

NICH. VERLEETT.

SAM. MEGAPOLENSIS.

CORNELIUS STEENWICK.

OLOFFE S. VAN KORTLANT.

JAMES COUSSEAU.

ROBERT CARR.

GEO. CARTERET.

JOHN WINTHROP.

SAM. WILLYS.

THOMAS CLARKE.

JOHN PINCHON.

" I do consent to these articles,

RICHARD NICOLLS."

These articles, favourable as they were to the inhabitants, were however very disagreeable to the Dutch governor, and he therefore refused to ratify them, till two days after they were signed by the commissioners.

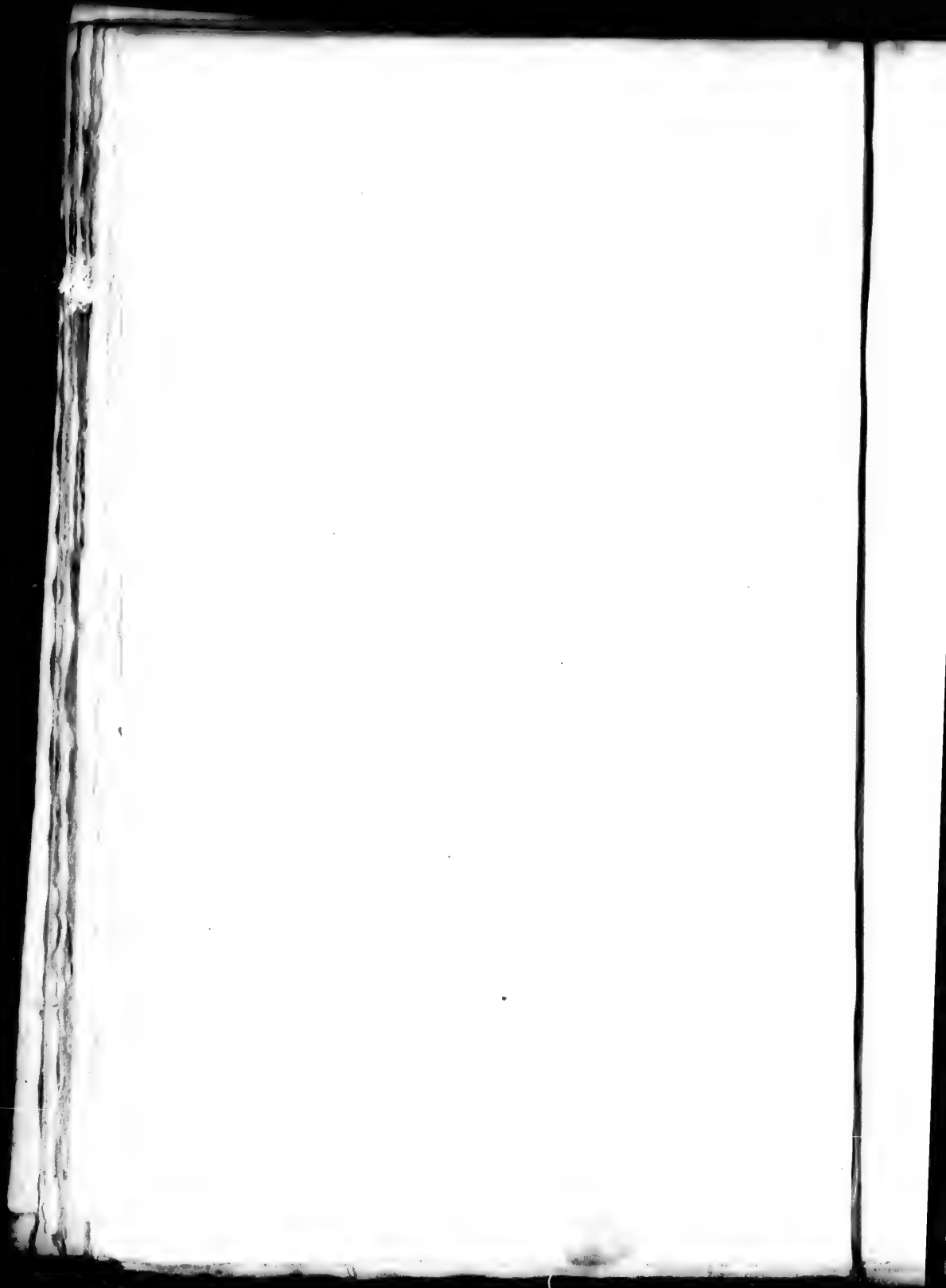
The town of New-Amsterdam, upon the reduction of the island Manhattans, took the name of New-York. It consisted of several small streets, laid out in the year 1656, and was not inconsiderable for the number of its houses and inhabitants. The easy terms of the capitulation, promised their peaceable subjection to the new government, and hence we find, that in two days after the surrender, the Boston aid was dismissed with the thanks of the commissioners to the general court. Hudson's and

the South River were, however, still to be reduced. Sir Robert Carr commanded the expedition on Delaware, and Carteret was commissioned to subdue the Dutch at Fort-Orange. The garrison capitulated on the 24th of September, and he called it Albany, in honour of the Duke. While Carteret was here, he had an interview with the Indians of the Five Nations, and entered into a league of friendship with them, which remarkably continues to this day.\* Sir Robert Carr was equally successful on South River, for he compelled both the Dutch and Swedes to capitulate and deliver up their garrisons the 1st of October, 1664; and that was the day in which the whole New-Netherlands became subject to the English crown. Very few of the inhabitants thought proper to remove out of the country.† Governor Stuyvesant himself held his estate and died here. His remains were interred in a chapel which he had erected on his own farm, at a small distance from the city, now possessed by his grandson Gerardus Stuyvesant, a man of probity, who has been elected into the magistracy above thirty years successively. Justice obliges me to declare, that for loyalty to the present reigning family, and a pure attachment to the protestant religion, the descendants of the Dutch planters are perhaps exceeded by none of his majesty's subjects.

\* The Dutch were sensible of the importance of preserving an uninterrupted amity with those Indians, for they were both very numerous and warlike. The French pursued quite different measures, and the irruptions of those tribes, according to their own authors, have often reduced Canada to the brink of ruin.

† Sir Robert Carr arrived at Bristol, 1st June, 1667, and died the next day. Carteret went home in 1664, leaving Maverick at Boston.—Vid. New England's Memorial, by Nath. Morton, secretary for New Plymouth, p. 219, edit. 12mo. 1721.





THE  
**HISTORY OF NEW-YORK.**

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**PART II.**

**FROM THE SURRENDER IN 1664, TO THE SETTLEMENT  
AT THE REVOLUTION.**

RICHARD NICOLLS being now possessed of the country, took the government upon him, under the style of "deputy-governor under his royal highness the duke of York, of all his territories in America." During his short continuance here, he passed a vast number of grants and confirmations of the ancient Dutch patents, the profits of which must have been very considerable. Among these, no one has occasioned more animated contention, than that called the Elizabeth Town Grant, in New-Jersey; which, as it relates to another colony, I should not have mentioned, but for the opportunity to caution the reader against the representation of that controversy contained in Douglass's Summary. I have sufficient reasons to justify my charging that account with partiality and mistakes; and for proofs, refer

to the printed answer in chancery, published in the year 1751.

Besides the chief command of this province, Nicolls had a joint power\* with Sir Robert Carr, Carteret, and Maverick, to settle the contested boundaries of certain great patents. Hence we find, that three of them had a conference with several gentlemen from Connecticut, respecting the limits of this and that colony. The result was an adjudication in these words :

“ By virtue of his majesty’s commission, we have heard the difference, about the bounds of the patents granted to his royal highness the duke of York, and his majesty’s colony of Connecticut, and having deliberately considered all the reasons alleged by Mr. Allyn, sen. Mr. Gold, Mr. Richards, and captain Winthrop, appointed by the assembly held at Hartford, the 13th of October, 1664, to accompany John Winthrop, esq. the governor of his majesty’s colony of Connecticut, to New-York, and to agree upon the bounds of the said colony, why the said Long Island should be under the government of Connecticut, which are too long here to be recited, we do declare and order, that the southern bounds of his majesty’s colony of Connecticut, is the sea, and that Long Island is to be under the government of his royal highness the duke of York, as is expressed by plain

\* The commission from king Charles II. was dated 26th of April, 1664. After a recital of disputes concerning limits in New-England, and that addresses had been sent home from the Indian natives, complaining of abuses received from the English subjects ; the commissioners, or any three or two of them, of which Nicolls was to be one, were authorized to visit the New-England colonies, and determine all complaints military, civil, and criminal, according to their discretion, and such instructions, as they might receive from the crown.

words, in the said patents, respectively, and also by virtue of his majesty's commission, and the consent of both the governors and the gentlemen above-named. We also order and declare, that the creek, or river, called Mamaroneck, which is reputed to be about thirteen miles to the east of West-chester, and a line drawn from the east point or side, where the fresh water falls into the salt, at high water mark, north-north-west to the line of the Massachusetts's, be the western bounds of the said colony of Connecticut, and all plantations lying westward of that creek and line so drawn, to be under his royal highness's government; and all plantations lying eastward of that creek and line, to be under the government of Connecticut. Given under our hands, at James's Fort in New-York; on the island of Manhattan, this 1st day of December, 1664.

" RICHARD NICOLLS.

" GEORGE CARTERET.

" S. MAVERICKE.

" We the governour and commissioners of the general assembly of Connecticut, do give our consent to the limits and bounds above mentioned, as witness our hands.

" ——— GOLD,

" JOHN WINTHROP, JUN.

" JOHN WINTHROP,

" ALLEN, Sen.

" RICHARDS."

At the time of this determination, about two-thirds of Long Island were possessed by people from New-England, who had gradually encroached upon the Dutch. As to the settlement between New-York

and Connecticut on the main, it has always been considered by the former, as founded upon ignorance and fraud.\* The station at Mamaroneck was about thirty miles from New-York; from Albany one hundred and fifty. The general course of the river is about north 12 or 15 degrees east: and hence it is evident, that a north-north-west line will soon intersect the river, and consequently leave the Dutch country, but a little before surrendered to colonel Carteret, out of the province of New-York. It has been generally esteemed, that the Connecticut commissioners in this affair, took advantage of the duke's agents, who were ignorant of the geography of the country.

The duke's commissioners in their narrative express themselves thus: "The bounds between the duke's province and Connecticut were mistaken by wrong information, for it was not intended that they should come nearer Hudson's river than twenty miles, yet the line was set down by the commissioners to go from such a point N N. W., whereas it ought to go just N., otherwise the lines will go into Hudson's river."

About the close of the year, the estate of the West-India company was seized and confiscated, hostilities being actually commenced in Europe as well as America, though no declarations of war had yet been published by either of the contending parties. A great dispute between the inhabitants of Jamaica on Long Island, which was adjusted by colonel Nicolls, on the 2d of January, 1665, gave

\* The town of Rye was settled under Connecticut, and the grant from that colony is bounded by this line of division.

rise to a salutary institution, which has in part obtained ever since. The controversy respected Indian deeds, and thenceforth it was ordained, that no purchase from the Indians, without the governor's license executed in his presence, should be valid. The strength and numbers of the natives rendered it necessary to purchase their rights ; and to prevent their frequent selling the same tract, it was expedient that the bargain should be attended with some considerable solemnity.

Colonel Nicolls also published an instrument to encourage settlers under the title of "The conditions for new planters in the territories of his royal highness the duke of York." I have met with three printed copies of it. It was in these words :

"The purchases are to be made from the Indian sachems, and to be recorded before the governor. The purchasers are not to pay for their liberty of purchasing to the governor. The purchasers are to set out a town and inhabit together. No purchaser shall, at any time, contract for himself with any sachem without consent of his associates, or special warrant from the governor. The purchasers are free from all manner of assessments or rates for five years after their town-plot is set out, and when the five years are expired, they shall only be liable to the public rates and payments according to the custom of other inhabitants, both English and Dutch. All lands thus purchased and possessed, shall remain to the purchasers and their heirs as free lands to dispose of as they please.

"In all territories of his royal highness, liberty of conscience is allowed, provided such liberty is

not converted to licentiousness, or the disturbance of others in the exercise of the protestant religion. The several townships have liberty to make their peculiar laws, and decide all small cases within themselves. The lands which I intend shall be first planted, are those upon the west side of Hudson's river, at or adjoining the Sopes. The governor hath purchased all the Sopes land, which is now ready for planters to put the plough into, it being clear ground. But if any number of men sufficient for two, or three, or more towns, shall desire to plant upon any other lands, they shall have all due encouragement proportionable to quality and undertakings. Every township is obliged to pay their minister, according to such agreement as they shall make with him, and no man to refuse his proportion; the minister being elected by the major part of the householders, inhabitants of the town. Every township to have the free choice of all the officers, both civil and military; and all men who shall take the oath of allegiance to his majesty, and who are not servants or day labourers, but are admitted to enjoy town lots, are esteemed freemen of the jurisdiction, and cannot forfeit the same without due process in law.

R. NICOLLS."

Another instance of colonel Nicolls' prudence, was his gradual introduction of the English methods of government. It was not till the 12th of June, this year, that he incorporated the inhabitants of New-York, under the care of a mayor, five aldermen, and a sheriff. Till this time the city was ruled by a scout, burgomasters, and schepens.

In March preceding, there was a great convention before the governor, at Hempstead, of two deputies from every town in Long Island, empowered to bind their constituents. The design of their meeting was to adjust the limits of their townships for the preservation of the public peace.

The war being proclaimed at London on the 4th of this month, Nicolls received the account of it in June, with a letter from the lord chancellor, informing him, that De Ruyter, the Dutch admiral, had orders to visit New-York. His lordship was misinformed, or the admiral was diverted from the enterprise, for the English peaceably held the possession of the country during the whole war, which was concluded on the 21st of July, 1667, by the treaty of Breda. Some are of opinion, that the exchange made with the Dutch for Surinam, which they had taken from us, was advantageous to the nation; but these judges do not consider, that it would have been impossible for the Dutch to have preserved this colony against the increasing strength of the people in New-England, Maryland, and Virginia.

After an administration of three years, Nicolls returned to England. The time during his short residence here, was almost wholly taken up in confirming the ancient Dutch grants. He erected no courts of justice, but took upon himself the sole decision of all controversies whatsoever. Complaints came before him by petition; upon which he gave a day to the parties, and after a summary hearing, pronounced judgment. His determinations were



called edicts, and executed by the sheriffs he had appointed. It is much to his honour, that notwithstanding all this plenitude of power, he governed the province with integrity and moderation. A representation from the inhabitants of Long Island, to the general court of Connecticut, made about the time of the revolution, commends him as a man of an easy and benevolent disposition; and this testimonial is the more to be relied upon, because the design of the writers was, by a detail of their grievances, to induce the colony of Connecticut to take them under its immediate protection.

Francis Lovelace, a colonel, was appointed by the Duke, to succeed Nicolls in the government of the province, which he began to exercise in May, 1667. As he was a man of great moderation, the people lived very peaceably under him, till the surrender of the colony, which put an end to his power, and is the only event that signalized his administration.

The ambitious designs of Louis XIV. against the Dutch, gave rise to our war with the States General in 1672. Charles II. a prince sunk in pleasures, profligate, and poor, was easily detached from his alliance with the Dutch, by the intrigues and pecuniary promises of the French king. The following passage from a fine writer,\* shows that his pretences for entering into the war were perfectly groundless and trifling.

“The king of England, on his side, reproached them with disrespect, in not directing their fleet to

\* Voltaire's Age of Louis XIV.

lower the flag before an English ship; and they were also accused in regard to a certain picture, wherein Cornelius de Witt, brother to the pensionary, was painted with the attributes of a conqueror. Ships were represented in the back-ground of the piece, either taken or burnt. Cornelius de Witt, who had really had a great share in the maritime exploits against England, had permitted this trifling memorial of his glory: but the picture, which was in a manner unknown, was deposited in a chamber wherein scarce any body ever entered. The English ministers, who presented the complaints of their king against Holland, in writing, therein mentioned certain *abusive pictures*. The States, who always translated the memorials of ambassadors into French, having rendered *abusive*, by the words *fautifs trompeurs*, they replied, that they did not know what these *roguish pictures* (*ces tableaux trompeurs*) were. In reality, it never in the least entered into their thoughts, that it concerned this portrait of one of their citizens, nor did they ever conceive this could be a pretence for declaring war."

A few Dutch ships arrived the year after, on the 30th July, under Staten Island, at the distance of a few miles from the city of New-York. John Manning, a captain of an independent company, had at that time the command of the fort, and by a messenger sent down to the squadron, treacherously made his peace with the enemy. On that very day the Dutch ships came up, moored under the fort, landed their men, and entered the garrison, without giving or receiving a shot. A council of

war was afterwards held at the Stadt-house, at which were present

CORNELIUS EVERTSE, JUN.	} <i>Commodores.</i>
JACOB BENKES,	
ANTHONY COLVE,	} <i>Captains.</i>
NICHOLAS BOES,	
ABRAHAM FERD. VAN ZYLL,	

All the magistrates and constables from East Jersey, Long-Island, Esopus, and Albany, were immediately summoned to New-York; and the major part of them swore allegiance to the States General and the prince of Orange. Colonel Lovelace was ordered to depart the province, but afterwards obtained leave to return to England with commodore Benkes. It has often been insisted on, that this conquest did not extend to the whole province of New-Jersey, but upon what foundation I cannot discover. From the Dutch records, it appears, that deputies were sent by the people inhabiting the country, even so far westward as Delaware river, who in the name of their principals, made a declaration of their submission; in return for which, certain privileges were granted to them, and three judicatories erected at Niewer Amstel, Upland, and Hoer Kill. Colve's commission to be governor of this country is worth printing, because it shows the extent of the Dutch claims. The translation runs thus :

“ The honourable and awful council of war for their high mightinesses the States General of the United Netherlands, and his serene highness the prince of Orange, over a squadron of ships, now at anchor in Hudson's river, in New-Netherlands : To

all those who shall see or hear these, greeting. As it is necessary to appoint a fit and able person to carry the chief command over this conquest of New-Netherlands, with all its appendancies and dependancies, from Cape Hinlopen, on the south side of the South or Delaware bay, and fifteen miles more southerly, with the said bay and South river included ; so as they were formerly possessed by the directors of the city of Amsterdam, and after by the English government, in the name and right of the Duke of York ; and further, from the said Cape Hinlopen, along the Great Ocean, to the east end of Long-Island, and Shelter-Island ; from thence westward to the middle of the Sound, to a town called Greenwich, on the main, and to run landward in, northerly ; provided that such line shall not come within ten miles of North river, conformable to a provincial treaty made in 1650, and ratified by the States General, February 22, 1656, and January 23, 1664 ; with all lands, islands, rivers, lakes, kills, creeks, fresh and salt waters, fortresses, cities, towns, and plantations therein comprehended. So it is, that we being sufficiently assured of the capacity of Anthony Colve, captain of a company of foot, in the service of their high mightinesses, the States General of the United Netherlands, and his serene highness the prince of Orange, &c., by virtue of our commission, granted us by their before-mentioned high mightinesses and his highness, have appointed and qualified, as we do by these presents appoint and qualify, the said captain Anthony Colve, to govern and rule these lands, with the appendancies and dependancies thereof, as governor-general ; to

protect them from all invasions of enemies, as he shall judge most necessary; hereby charging all high and low officers, justices, and magistrates, and others in authority, soldiers, burglars, and all the inhabitants of this land, to acknowledge, honour, respect, and obey, the said Anthony Colve, as governor-general; for such we judge necessary, for the service of the country, waiting the approbation of our principals. Thus done at Fort William Henderick, the 12th day of August, 1673.

"Signed by

" CORNELIUS EVERTSE, jun.

" JACOB BENKES."

The Dutch governor enjoyed his office but a very short season, for on the 9th of February, 1674, the treaty of peace between England and the States General was signed at Westminster; the sixth article of which restored this country to the English. The terms of it were generally: "That whatsoever countries, islands, towns, ports, castles, or forts, have or shall be taken on both sides, since the time that the late unhappy war broke out, either in Europe or elsewhere, shall be restored to the former lord and proprietor, in the same condition they shall be in, when the peace itself shall be proclaimed; after which time there shall be no spoil nor plunder of the inhabitants, no demolition of fortifications, nor carrying away of guns, powder or other military stores, which belonged to any castle or fort, at the time when it was taken."

The lenity which began the administration of colonel Nicolls was continued under Lovelace. He appears to have been a man rather of a phlegmatic

than an enterprising disposition, always pursuing the common road, and scarce ever acting without the aid of his council.

It was this governor who introduced the prohibition, by proclamation, in 1671, against masters of vessels carrying persons off without a pass from the Secretary's office, and a despatch for his vessel; and it laid the foundation for fees to that office which were refused by the merchants, but not until near a hundred years afterwards.\*

Instead of taking upon himself the sole determination of judicial controversies, after the example of his predecessor, he called to his assistance a few justices of the peace. This, which was called the Court of Assizes,† was the principal law judicatory in those times. The legislative power under the duke, was vested entirely in the governor and council. A third estate might then be easily dispensed with, for the charge of the province was small,‡ and in a great measure defrayed by his royal highness, the proprietor of the country.

\* See the minutes of Council on the 19th and 23d June, 1766. Sir Henry Moore made the legality of the Secretary's passes a question, and upon a diversity of opinion between Mr. Chief Justice Horsmanden and Mr. Justice Smith, the council advised an establishment by act of assembly, which was never obtained, as might have been foreseen from the jealous temper of that day, when all the provinces were alarmed by the stamp act and the statute for quartering soldiers.

† See Note F.

‡ The manner of raising public money was established by colonel Nicolls on the first of June, 1665, and was thus: The high sheriff issued a warrant annually, to the high constables of every district, and they sent theirs to the petty constables; who with the overseers of each town, made a list of all male persons above sixteen years of age, with an estimate of their rent and personal estates, and then taxed them according to certain rates, prescribed by a law. After the assessment was returned to the high sheriff, and approved by the governor, the constables received warrants for levying the taxes by distress and sale.

Upon the conclusion of peace in 1674, the duke of York, to remove all controversy respecting his property, obtained a new patent\* from the king, dated the 29th of June, for the lands granted in 1664, and two days after commissioned major, afterwards Sir Edmond Andross, to be governor of his territories in America. After the resignation of this province, which was made to him by the Dutch possessors, on the 31st of October following, he called a court martial to try Manning for his treacherous and cowardly surrender. The articles of accusation exhibited against him were, in substance:

I. That the said Manning, on the 28th of July, 1673, having notice of the approach of the enemy's fleet, did not endeavour to put the garrison in a posture of defence, but on the contrary, slighted such as offered their assistance.

II. That while the fleet was at anchor under Staten Island, on the 30th of July, he treacherously sent on board to treat with the enemy, to the great discouragement of the garrison.

III. That he suffered the fleet to moor under the fort, forbidding a gun to be fired on pain of death.

IV. That he permitted the enemy to land without the least opposition.

V. That shortly after he had sent persons to treat with the Dutch commodores, he struck his flag, even before the enemy were in sight of the garrison, the

\* Some are of opinion that the second patent was unnecessary, the duke being revested per post liminium. This matter has been often disputed in the ejections between the New-Jersey proprietors and the Elizabeth Town patentees. In New-York the right of postliminy was disregarded, and perhaps unknown; for there are many instances, especially on Long-Island, of new grants from Sir Edmond Andross, for lands patented under Nicolls and Lovelace, by which the quit-rents have been artfully enlarged.

fort being in a condition, and the men desirous, to fight.

VI. And lastly, that he treacherously caused the fort gates to be opened, and cowardly and basely let in the enemy, yielding the garrison without articles.

This scandalous charge, which Manning on his trial confessed to be true, is less surprising than the lenity of the sentence pronounced against him. It was this, that though he deserved death, yet because he had since the surrender been in England, and seen the king and the duke, it was adjudged that his sword should be broke over his head in public, before the City-Hall, and himself rendered incapable of wearing a sword, and of serving his majesty for the future, in any public trust in the government.

This light censure is, however, no proof that Sir Edmond was a man of a merciful disposition; the historians of New-England, where he was afterwards governor, justly transmit him to posterity under the odious character of a sycophantic tool to the duke, and an arbitrary tyrant over the people committed to his care. He knew no law but the will of his master, and Kirk and Jefferies were not fitter instruments than he to execute the despotic projects of James II.

In the year 1675, Nicholas Renslaer, a Dutch clergyman, arrived here. He claimed the manor of Renslaerwick, and was recommended by the duke to Sir Edmond Andross for a living in one of the churches at New-York or Albany, probably to serve the popish cause.\* Niewenhyt, minister of the church at Albany, disputed his right to administer

\* See Note G.



the sacraments, because he had received an episcopal ordination and was not approved by the *Classis* of Amsterdam, to which the Dutch churches here hold themselves subordinate. In this controversy the governor took the part of Renslaer, and accordingly summoned Niewenhyt before him, to answer for his conduct. This minister was treated with such singular contempt, and so frequently harassed by fruitless and expensive attendances before the council, that the dispute became interesting, and the greater part of the people resented the usage he met with. Hence we find that the magistrates of Albany soon after imprisoned Renslaer, for several dubious words (as they are called in the record,) delivered in a sermon. The governor, on the other hand, ordered him to be released, and summoned the magistrates to attend him at New-York: warrants were then issued to compel them to give security in £5000 each, to make out good cause for confining the minister. Leisler, who was one of them, refused to comply with the warrant, and was thrown into jail. Sir Edmond, fearful that a great party would rise up against him, was at last compelled to discontinue his ecclesiastical jurisdiction, and to refer the controversy to the determination of the consistory of the Dutch church at Albany. It is perhaps not improbable, that these popish measures sowed the seeds of that aversion to the duke's government, which afterwards produced those violent convulsions in the province under Leisler, at the time of the revolution in favour of the prince of Orange.

If Sir Edmond Andross's administration at New-York appears to be less exceptionable than while he

commanded at Boston, it was through want of more opportunities to show himself in his true light. The main course of his public proceedings, during his continuance in the province, was spent in the ordinary acts of government, which then principally consisted in passing grants to the subject, and presiding in the court of assize established by colonel Lovelace. The public exigencies were now in part supplied by a kind of benevolence—the badge of bad times! This appears in an entry on the records, of a letter of May the 5th, 1676, from governor Andross, to several towns on Long-Island, desiring to know what sums they would contribute towards the war. Near the close of his administration, he thought proper to quarrel with Philip Carteret, who, in 1680, exercised the government of East Jersey, under a commission from Sir George Carteret, dated July the 31st, 1675. Andross disputed his right, and seized and brought him prisoner to New-York, for which it is said he lost his own government; but whoever considers that Sir Edmond was immediately preferred to be governor of Boston, will rather believe that the duke superseded him for some other reasons.

Before I proceed to the succeeding administration, in which our Indian affairs began to have a powerful influence upon the public measures, it may not be improper to present the reader with a summary view of the history and character of the Five Nations.\* These, of all those innumerable tribes of savages which inhabit the northern part of Ame-

\* By the Dutch called Maquaas, by the French Iroqueis, and by us, Five Nations, Six Nations, and lately The Confederates. They are greatly diminished, and consist now only of about twelve hundred fighting men.

rica, are of most importance to us and the French, both on account of their vicinity and warlike disposition. Before the late incorporation of the Tuscaroras, a people driven by the inhabitants of Carolina from the frontiers of Virginia; they consisted of five confederate cantons.\* What in particular gave rise to this league, and when it took place, are questions which neither the natives, nor Europeans, pretend to answer. Each of these nations is divided into three families, or clans, of different ranks, bearing for their arms, and being distinguished by the names of the tortoise, the bear, and the wolf.†

No people in the world, perhaps, have higher notions than these Indians of military glory. All the surrounding nations have felt the effects of their prowess; and many, not only became their tributaries, but were so subjugated to their power, that without their consent, they durst not commence either peace or war.

Though a regular police for the preservation of harmony within, and the defence of the state against invasions from without, is not to be expected from the people of whom I am now writing, yet perhaps, they have paid more attention to it than is generally allowed. Their government is suited to their condition. A people whose riches consist, not so much in abundance as in a freedom from want;‡ who are

\* The Tuscaroras were received upon a supposition that they were originally of the same stock with the Five Nations, because there is some similitude between their languages.

† Their instruments of conveyances are signed by signatures which they make with a pen, representing these animals.

‡ An Indian, in answer to his question, "What the white people meant by covetousness?" was told by another, that it signified, "A desire of more than a man had need of." "That's strange!" said the querist.

circumscribed by no boundaries, who live by hunting, and not by agriculture, must always be free, and therefore subject to no other authority than such as consists with the liberty necessarily arising from their circumstances. All their affairs, whether respecting peace or war, are under the direction of their sachems, or chief men. Great exploits and public virtue procure the esteem of a people, and qualify a man to advise in council, and execute the plan concerted for the advantage of his country : thus whoever appears to the Indians in this advantageous light, commences a sachem without any other ceremony.

As there is no other way of arriving at this dignity, so it ceases, unless an uniform zeal and activity for the common good, is uninterruptedly continued. Some have thought it hereditary, but that is a mistake. The son is indeed respected for his father's services, but without personal merit he can never share in the government ; which, were it otherwise, must sink into perfect disgrace. The children of such as are distinguished for their patriotism, moved by the consideration of their birth, and the perpetual incitements to virtue constantly inculcated upon them, imitate their father's exploits, and thus attain to the same honours and influence ; which accounts for the opinion that the title and power of sachem are hereditary.

Each of these republics has its own particular chiefs, who hear and determine all complaints in council, and though they have no officers for the execution of justice, yet their decrees are always obeyed, from the general reproach that would follow

a contempt of their advice. The condition of this people exempts them from factions, the common disease of popular governments. It is impossible to gain a party amongst them by indirect means; for no man has either honour, riches, or power to bestow.\*

All affairs which concern the general interest are determined in a great assembly of the chiefs of each canton, usually held at Onondaga, the centre of their country. Upon emergencies they act separately; but nothing can bind the league but the voice of the general convention.

The French, upon the maxim *divide et impera*, have tried all possible means to divide these republics, and sometimes have even sown great jealousies amongst them. In consequence of this plan, they have seduced many families to withdraw to Canada, and there settled them in regular towns, under the command of a fort and the tuition of missionaries.

The manners of these savages are as simple as their government. Their houses are a few crotched stakes thrust into the ground, and overlaid with bark. A fire is kindled in the middle, and an aperture left at the top for the conveyance of the smoke. Whenever a considerable number of those huts are collected, they have a castle, as it is called, consisting of a square without bastions, surrounded with

\* The learned and judicious author of "The Spirit of Laws," speaking of a people who have a fixed property in lands, observes: "That if a chief would deprive them of their liberty, they would immediately go and seek it under another, or retire into the woods and live there with their families." The Five Nations can never be enslaved till they grow rich by agriculture and commerce. Property is the most permanent basis of power. The authority of a sachem depending only upon his reputation for wisdom and courage, must be weak and precarious, and therefore safe to the people.

pallisadoes. They have no other fortification; and this is only designed as an asylum for their old men, their wives, and children, while the rest are gone out to war. They live almost entirely without care. While the women, or squaws, cultivate a little spot of ground for corn, the men employ themselves in hunting. As to clothes, they use a blanket girt at the waist, and thrown loosely over their shoulders; some of their women indeed have, besides this, a sort of petticoat, and a few of their men wear shirts; but the greater part of them are generally half naked. In winter, their legs are covered with stockings of blanket, and their feet with socks of deer skin. Many of them are fond of ornaments, and their taste is very singular. I have seen rings affixed, not only to their ears, but their noses. Bracelets of silver and brass round their wrists are very common. The women plait their hair and tie it up behind in a bag, perhaps in imitation of the French beaus in Canada. Though the Indians are capable of sustaining great hardships, yet they cannot endure much labour, being rather fleet than strong. Their men are taller than the Europeans, rarely corpulent, always beardless,\* straight limbed, of a tawny complexion, and black uncurled hair. In their food they have no manner of delicacy, for though venison is their ordinary diet, yet sometimes they eat dogs, bears, and even snakes. Their cookery is of two kinds, boiled or roasted; to perform the latter, the meat is penetrated by a short sharp stick set in the ground, inclining towards the fire,

\* Because they pluck out the hairs. The French writers, who say they have naturally no beards, are mistaken: and the reasons they assign for it are ridiculous.

and turned as occasion requires. They are hospitable to strangers, though few Europeans would relish their highest favours of this kind, for they are very nasty both in their garments and food. Every man has his own wife, whom he takes and leaves at pleasure: a plurality, however, at the same time, is by no means admitted amongst them. They have been generally commended for their chastity, but I am informed by good authority, that they are very lascivious; and that the women, to avoid reproach, frequently destroy the fœtus in the womb. They are so perfectly free, that unless their children, who generally assist the mother, may be called servants, they have none. The men frequently associate themselves for conversation, by which means they not only preserve the remembrance of their wars and treaties, but diffuse among their youths, incitements to military glory, as well as instruction in all the subtleties of war.

Since they became acquainted with the Europeans, their warlike apparatus is a musket, hatchet,\* and a long knife. Their boys still accustom themselves to bows and arrows, and are so dextrous in the use of them, that a lad of sixteen will strike an English shilling five times in ten, at twelve or fourteen yards distance. Their men are excellent marksmen, both with the gun and hatchet; their dexterity at the latter is very extraordinary, for they rarely miss the object, though at a considerable distance. The hatchet in the flight perpetually turns round, and yet always strikes the mark with the edge.

\* Hence, to take up the hatchet, is with them a phrase signifying to declare war; as on the contrary to bury it, denotes the establishment of a peace.

Before they go out, they have a feast upon dog's flesh, and a great war dance. At these, the warriors, who are frightfully painted with vermilion, rise up and sing their own exploits, or those of their ancestors, and thereby kindle a military enthusiasm in the whole company. The day after the dance, they march out a few miles in a row, observing a profound silence. The procession being ended, they strip the bark from a large oak, and paint the design of their expedition on the naked trunk. The figure of a canoe, with the number of men in it, determines the strength of their party; and by a deer, a fox, or some other emblem painted at the head of it, we discover against what nation they are gone out.

The Five Nations being devoted to war, every art is contrived to diffuse a military spirit through the whole body of their people. The ceremonies attending the return of a party, seem calculated in particular for that purpose. The day before they enter the village, two heralds advance, and at a small distance set up a yell, which by its modulation intimates either good or bad news. If the former, the village is alarmed, and an entertainment provided for the conquerors, who in the mean time approach in sight: one of them bears the scalps stretched over a bow, and elevated upon a long pole. The boldest man in the town comes out, and receives it, and instantly flies to the hut where the rest are collected. If he is overtaken, he is beaten unmercifully; but if he out-runs the pursuer, he participates in the honor of the victors, who at their first entrance receive no compliments, nor



speak a single word till the end of the feast. Their parents, wives, and children, then are admitted, and treat them with the profoundest respect. After these salutations, one of the conquerors is appointed to relate the whole adventure, to which the rest attentively listen, without asking a question, and the whole concludes with a savage dance.

The Indians never fight in the field, or upon equal terms, but always skulk and attack, by surprise, in small parties, meeting every night at a place of rendezvous. Scarce any enemy can escape them, for by the disposition of the grass and leaves, they follow his track with great speed any where but over a rock. Their barbarity is shocking to human nature. Women and children they generally kill and scalp, because they would retard their progress, but the men they carry into captivity. If any woman has lost a relation, and inclines to receive the prisoner in his stead, he not only escapes a series of the most inhuman tortures, and death itself, but enjoys every immunity they can bestow, and is esteemed a member of the family into which he is adopted. To part with him would be the most ignominious conduct, and considered as selling the blood of the deceased ; and, for this reason, it is not without the greatest difficulty that a captive is redeemed.

When the Indians incline to peace, a messenger is sent to the enemy with a pipe, the bowl of which is made of soft red marble ; and a long reed, beautifully painted, and adorned with the gay plumage of birds, forms the stem. This is his infallible protection from any assault on the way. The envoy

makes his proposals to the enemy, who, if they approve them, ratify the preliminaries to the peace, by smoking through the pipe, and from that instant, a general cessation of arms takes place. The French call it a *Calumet*. It is used, as far as I can learn, by all the Indian nations upon the continent. The rights of it are esteemed sacred, and have only been invaded by the Flat Heads; in just indignation for which, the Confederates maintained a war with them for near thirty years.

As to the language of the Five Nations, the best account I have had of it, is contained in a letter from the Rev. Mr. Spencer, who resided amongst them in the year 1748, being then a missionary from the Scotch Society for propagating Christian Knowledge. He writes thus :

"SIR, Though I was very desirous of learning the Indian tongue, yet through my short residence at Onoughquage, and the surly disposition of my interpreter, I confess my proficiency was not great.

"Except the Tuscaroras, all the Six Nations speak a language radically the same. It is very masculine and sonorous, abounding with gutturals and strong aspirations, but without labials. Its solemn grave tone is owing to the generosity of its feet, as you will observe in the following translation of the Lord's Prayer, in which I have distinguished the time of every syllable by the common marks used in prosody.\*

\* If we had a good dictionary, marking the quantity as well as emphasis of every syllable in the English language, it would conduce to an accuracy and uniformity of pronunciation. The dignity of style, so far as the ear is concerned, consists principally in generous feet; and perhaps it may be a just remark, that no sentence, unless in a dialogue, ends well without a full sound; Gordon

“*Soungwauneha, caurounkyawga, tehseetaroan, sauhsonyousta, esa, sawaneyou, Okettauhseela, eh-neauwoung. na, caurounkyawga, nughwonshauga, neattewehnesalauga, taugwaunautoronoantoughsick, toantaugweleewheyoustaug, chen ~~and~~ chaqua-tautalehwheyoustaunna, toughsau, ~~taug~~ waussareneh, tawautottenaugaloightoungga, nasawne, sacheau-taugwass, coantehsalohaunzaickaw, esa, sawauneyou, esa, sashautzta, esa, soungwasoung, chen-neauhaungwa, auwen.*”

“The extraordinary length of Indian words, and the guttural aspirations, necessary in pronouncing them, render the speech extremely rough and difficult. The verbs never change in their terminations, as in Latin, Greek and Hebrew, but all their variations are prefixed. Besides the singular and plural, they have also the dual number. A strange transposition of syllables of different words, *euphonia gratia*, is very common in the Indian tongue, of which I will give an instance. *OGILLĀ* signifies fire, and *cĀWĀŪNNĀ* *great*, but instead of joining the adjective and substantive to say *great fire*, *cĀWĀŪNNĀ ōGILLĀ*, both words would be blended into this one, *cŌ-GILLĀ-WĀŪNNĀ*. The dialect of the Oneidas is softer than that of the other nations; and the reason is, because they have more vowels, and often supply the place of harsh letters with liquids. Instead of R, they always use L: Rebecca would be pronounced Lequecca.”

and Fordyce rarely swerve from this rule, and Mr. Mason, an ingenious author, has lately written with great applause on this attribute of style.

The art of public speaking is in high esteem among the Indians, and much studied. They are extremely fond of method, and displeased with an irregular harangue, because it is difficult to be remembered. When they answer, they repeat the whole, reducing it into strict order. Their speeches are short, and the sense conveyed in strong metaphors. In conversation they are sprightly; but solemn and serious in their messages relating to public affairs. Their speakers deliver themselves with surprising force and great propriety of gesture. The fierceness of their countenances, the flowing blanket, elevated tone, naked arm, and erect stature, with a half circle of auditors seated on the ground, and in the open air, cannot but impress upon the mind, a lively idea of the ancient orators of Greece and Rome.

At the close of every important part of the speech, ratifying an old covenant, or creating a new one, a belt is generally given, to perpetuate the remembrance of the transaction. These belts are about four inches wide, and thirty in length. They consist of strings of conque shell beads fastened together.\*

With respect to religion, the Indians may be said to be under the thickest gloom of ignorance. If they have any, which is much to be questioned, those who affirm it, will find it difficult to tell us wherein it consists. They have neither priest nor

\* Those beads which pass for money, are called by the Indians, *wampion*, and by the Dutch, *sewant*; six beads were formerly valued at a styver. There are always several poor families at Albany, who support themselves by coining this cash for the traders.

temple, sacrifice nor altar. Some traces, indeed, appear of the original law written upon their hearts; but they have no system of doctrines, nor any rites and modes of public worship. They are sunk unspeakably beneath the polite pagans of antiquity. Some confused notions, indeed, of beings superior to themselves, they have; but of the Deity and his natural and moral perfections, no proper or tolerable conception; and of his general and particular providence they know nothing. They profess no obligations to him, nor acknowledge their dependence upon him. Some of them, it is said, are of opinion, that there are two distinct, powerful beings, one able to help, the other to do them harm. The latter they venerate most, and some allege, that they address him by a kind of prayer. Though there are no public monuments of idolatry to be seen in their country, yet the missionaries have discovered coarse imagery in wooden trinkets, in the hands of their jugglers, which the converts deliver up as detestable. The sight of them would remind a man of letters, of the *Lares* and *Penates* of the ancients, but no certain judgment can be formed of their use. The Indians sometimes assemble in large numbers, and retire far into the wilderness, where they eat and drink in a profuse manner. These conventions are called *Kenticoy*s. Some esteem them to be debauched revels or *Bacchanalia*; but those who have privately followed them into these recesses, give such accounts of their conduct, as naturally lead one to imagine, that they pay a joint homage and supplication to some invisible being. If we suppose they have a

religion, it is worse than none, and raises in the generous mind most melancholy ideas of their depraved condition. Little has been done to illuminate these dark corners of the earth with the light of the Gospel. The French priests boast indeed of their converts, but they have made more proselytes to politics than religion. Queen Anne sent a missionary amongst them, and gave him an appointment out of the privy purse. He was a man of a good life, but slow parts; and his success very inconsiderable. The Rev. Mr. Barclay afterwards resided among the Mohawks, but no suitable provision being made for an interpreter, he was obliged to break up the mission. If the English Society for propagating the Gospel, that truly venerable body, instead of maintaining missionaries in rich Christian congregations along the continent, expended half the amount of their annual contributions on evangelists among the heathen, besides the unspeakable religious benefits that would, it is to be hoped, accrue to the natives, such a proceeding would conduce greatly to the safety of our colonies, and his majesty's service. Much has been written upon this subject in America;\* and why nothing to purpose has yet been attempted in England, towards so laudable a design, can only be attributed to the amazing falsehoods and misrepresentations, by which some of the missionaries have long imposed upon benevolent minds in Great Britain.†

As to the history of the Five Nations, before their

\* See Mr. Hobart's Letters to the Episcopalians in New-England. The Account of the Scotch Mission at Stockbridge. Douglass's Summary, &c.

† See Note H.

acquaintance with the Europeans, it is wrapt up in the darkness of antiquity. It is said that their first residence was in the country about Montreal; and that the superior strength of the Adirondacks, whom the French call Algonquins, drove them into their present possessions, lying on the south side of the Mohawks River, and the great Lake Ontario.\* Towards the close of these disputes, which continued for a long series of years, the confederates gained advantages over the Adirondacks, and struck a general terror into all the other Indians. The Hurons on the north side of the Lake Erie, and the Cat Indians on the south side, were totally conquered and dispersed. The French, who settled Canada in 1606, took umbrage at their success, and began a war with them which had well nigh ruined the new colony. In autumn 1665, Mr. Courcelles, the governor, sent out a party against the Mohawks. Through ignorance of the country, and the want of snow-shoes, they were almost perished, when they fell in with Schenectady. And even there the Indians would have sacrificed them to their barbarous rage, had not Corlear, a Dutchman, interposed to protect them. For this seasonable hospitality, the

\* Charlevoix, in partiality to the French, limits the country of the Five Nations, on the north, to the 44th degree of latitude; according to which, all the country on the north side of the Lake Ontario, and the river issuing thence to Montreal, together with a considerable tract of land on the south side of that river, belongs to the French. Hennepin, a Recollet friar, has more regard to truth than the Jesuit; for he tells us in effect, that the Iroquois possessed the lands on the north as well as the south side of the lake, and mentions several of their villages in 1679, viz. Tejajahon, Kento, and Ganneousse. The map in his book agrees with the text. Charlevoix is at variance with his geographer; for Mr. Bellin, besides laying down these towns in the map, contained in the fifth volume, writes on the north side of the protraction of Lake Ontario, *Les Iroquois du Nord*.

French governor invited him to Canada, but he was unfortunately drowned in his passage through the Lake Champlain. It is in honour of this man, who was a favourite of the Indians, that the governors of New-York, in all their treaties are addressed by the name of Corlear. Twenty light companies of foot, and the whole militia of Canada, marched the next spring into the country of the Mohawks; but their success was vastly unequal to the charge and labour of such a tedious march of seven hundred miles, through an uncultivated desert; for the Indians, on their approach, retired into the woods, leaving behind them some old sachems, who preferred death to life, to glut the fury of their enemies. The emptiness of this parade on the one hand, and the Indian fearfulness of fire arms on the other, brought about a peace in 1667, which continued for several years after. In this interval, both the English and French cultivated a trade with the natives, very profitable to both nations. The latter, however, were most politic and vigorous, and filled the Indian country with their missionaries. The *Sieur Perrot*, the very year in which the peace was concluded, travelled about 1,200 miles westward, making proselytes of the Indians every where to the French interest. *Courcelles* appears to have been a man of art and industry. He took every measure in his power for the defence of Canada. To prevent the irruptions of the Five Nations, by the way of Lake Champlain, he built several forts, in 1665, between that and the mouth of the river *Sorel*. In 1672, just before his return to France, under pretence of treating with the Indians more commo-



diously, but in reality, as Charlevoix expresses it, "to bridle them," he obtained their leave to erect a fort at Cadaraoqui, or Lake Ontario, which Count Frontenac, his successor, completed the following spring, and called after his own name.\* The command of it was afterwards given to Mr. de la Salle, who, in 1678, rebuilt it with stone. This enterprising person, the same year, launched a bark of ten tons into the Lake Ontario, and another of sixty tons, the year after, into Lake Erie, about which time he inclosed with palisadoes, a little spot at Niagara.

Though the Duke of York had preferred colonel Thomas Dongan to the government of this province on the 30th of September, 1682, he did not arrive here till the 27th of August, in the following year. He was a man of integrity, moderation, and genteel manners, and though a professed Papist, may be classed among the best of our governors.

The people, who had been formerly ruled at the will of the duke's deputies, began their first participation in the legislative power under Colonel Dongan; for shortly after his arrival, he issued orders to the sheriffs, to summon the freeholders for choosing representatives, to meet him in assembly on the 17th of October, 1683. Nothing could be more agreeable to the people, who, whether Dutch or English, were born the subjects of a free state; nor, indeed, was the change of less advantage to the duke than to the inhabitants. For such a

\* In May, 1721, it was a square with four bastions, built of stone, being a quarter of a French league in circumference; before it, are many small islands, and a good harbour, and behind it a morass.—*Charlevoix*.

general disgust had prevailed, and in particular in Long Island, against the old form which Colonel Nicolls had introduced, as threatened the total subversion of the public tranquillity. Colonel Dongan saw the disaffection of the people at the east end of the island, for he landed there on his first arrival in the country ; and to extinguish the fire of discontent, then impatient to burst out, gave them his promise, that no laws or rates for the future should be imposed, but by a general assembly. Doubtless, this alteration was agreeable to the duke's orders, who had been strongly importuned for it,\* as well as acceptable to the people, for they sent him soon after an address, expressing the highest sense of gratitude, for so beneficial a change in the government. This is a copy of it, entitled "The humble address of the sheriffs to the most illustrious prince, James, duke of York and Albany :"

"May it please your royal highness,

"We should be very unworthy of the great benefits and advantages we have received under your just and gentle government, in so happy a climate, where every one enjoys his own just rights, liberties, and privileges, if we should still ungratefully continue in a silent neglect of a due acknowledgment of your royal highness, so often.

"We do, therefore, beseech your royal highness to accept our most humble and most hearty thanks, for sending us over the honourable colonel Thomas

\* The petition to his royal highness was drawn by the council, the aldermen of New-York, and the justices of the peace at the court of assize, the 29th of June, 1681. I have seen a copy in the hands of Lewis Morris, Esq. It contains many severe reflections upon the tyranny of Sir Edmond Andross.

Dongan, to be lieutenant and governor of this province, of whose integrity, justice, equity, and prudence, we have already had a very sufficient experience at our last general court of assizes. And that your royal highness might accumulate your gracious favours, and oblige not only us but succeeding generations, it has pleased your royal highness to grant us a general assembly, to be held the 17th of this instant October, in your city of New-York; a benevolence of which we have a larger and more grateful sense than can be expressed in this paper. And that it may appear that loyalty has spread as far into these parts of America, we will be always ready to offer up with our hearty prayers, both our lives and fortunes, for the defence of our most gracious sovereign, the king's most sacred majesty, and your royal highness, against all enemies whatsoever.

*"New-York, October 9th, 1683."*

It would have been impossible for him much longer to have maintained the old model over free subjects, who had just before formed themselves into a colony for the enjoyment of their liberties, and had even already solicited the protection of the colony of Connecticut, from whence the greatest part of them came. Disputes relating to the limits of certain townships at the east end of Long Island, sowed the seeds of enmity against Dongan, so deeply in the hearts of many who were concerned in them, that their representation to Connecticut, at the revolution, contains the bitterest invectives against him.

Dongan surpassed all his predecessors, in a due attention to our affairs with the Indians, by whom he was highly esteemed. It must be remembered to his honour, that though he was ordered by the duke to encourage the French priests, who were come to reside among the natives, under pretence of advancing the Popish cause, but in reality to gain them over to a French interest; yet he forbid the Five Nations to entertain them. The jesuits, however, had no small success. Their proselytes are called Praying Indians, or Caghnuagaes, and reside now in Canada, at the Fall of St. Louis, opposite to Montreal. This village was begun in 1671, and consists of such of the Five Nations, as have formerly been drawn away by the intrigues of the French priests, in the times of Lovelace and Andross, who seem to have paid no attention to our Indian affairs.\* It was owing to the instigation also of these priests, that the Five Nations about this time, committed hostilities on the back parts of Maryland and Virginia, which occasioned a grand convention at Albany, in the year 1684. Lord Howard of Effingham, the governor of Virginia, was present, and made a covenant with them for preventing further depredations, towards the accomplishment of which Colonel Dongan was very instrumental.† Doctor Colden has published this treaty at large, but as it has no immediate connection with the affairs of this province, I beg leave to

\* Of late, some others of the Confederates have been allured to settle at Oswegatchi, called by the French, la Gallette, near fifty miles below Frontenac. General Shirley's emissaries from Oswego, in 1755, prevailed with several of these families to return to their old habitations.

† This covenant was ratified in 1685, and at several times since.

refer the reader for a full account of it to his History of the Five Nations.

While Lord Howard was at Albany, a messenger from De la Barre, then governor of Canada, arrived there, complaining of the Seneca Indians, for interrupting the French in their trade with the more distant Indians, commonly included among us by the general name of the Far Nations.\* Colonel Dongan, to whom the message was sent, communicated it to the Senecas, who admitted the charge, but justified their conduct, alleging, that the French supplied arms and ammunition to the Twightwies,† with whom they were then at war. De la Barre, at the same time, meditating nothing less than the total destruction of the Five Nations, proceeded with an army of 1,700 men to the Lake Ontario. Mighty preparations were made to obtain the desired success: fresh troops were imported from France, and a letter procured from the duke of York to colonel Dongan, commanding him to lay no obstacles in the way. The officers posted in the out forts, even as far as Messilimakinac, were ordered to rendezvous at Niagara, with all the Western Indians they could engage. Dongan, regardless of the duke's orders, apprised the Indians of the French designs, and promised to assist them. After six weeks delay at Fort Frontenac, during which time a great sickness, occasioned by bad provisions, broke out in the French army, De la Barre found it necessary to

\* By the Far Nations, are meant all those numerous tribes inhabiting the countries on both sides of the lakes Huron and Erie, westward as far as the Mississippi, and the southern country along the banks of the Ohio, and its branches.

† By the French called Miamies.

conclude the campaign with a treaty, for which purpose he crossed the lake, and came to the place which, from the distress of his army, was called *la Famine*. Dongan sent an interpreter among the Indians, by all means to prevent them from attending the treaty. The Mohawks and Senecas accordingly refused to meet De la Barre, but the Oneidas, Onondagas, and Cayugas, influenced by the missionaries, were unwilling to hear the interpreter, except before the priests, one La Maine, and three other Frenchmen, and afterwards waited upon the French governor. Two days after their arrival in the camp, Monsieur De la Barre addressing himself to Garrangula, an Onondaga chief, made the following speech, the Indians and French officers at the same time forming a circle round about him.

"The king, my master, being informed that the Five Nations have often infringed the peace, has ordered me to come hither with a guard, and to send Ohguesse to the Onondagas, to bring the chief sachems to my camp. The intention of the great king is, that you and I may smoke the calumet of peace together; but on this condition, that you promise me, in the name of the Senecas, Cayugas, Onondagas, and Mohawks, to give entire satisfaction and reparation to his subjects, and for the future, never to molest them.

"The Senecas, Cayugas, Onondagas, Oneidas, and Mohawks, have robbed and abused all the traders that were passing to the Illinois and Miamies, and other Indian nations, the children of my king. They have acted on these occasions, contrary to the treaty

of peace with my predecessor. I am ordered, therefore, to demand satisfaction, and to tell them, that in case of refusal, or their plundering us any more, that I have express orders to declare war. This belt confirms my words. The warriors of the Five Nations have conducted the English into the lakes, which belong to the king, my master, and brought the English among the nations that are his children, to destroy the trade of his subjects, and to withdraw these nations from him. They have carried the English thither, notwithstanding the prohibition of the late governor of New-York, who foresaw the risk that both they and you would run. I am willing to forget those things, but if ever the like shall happen for the future, I have express orders to declare war against you. This belt confirms my words. Your warriors have made several barbarous incursions on the Illinois and Miamies; they have massacred men, women, and children, and have made many of these nations prisoners, who thought themselves safe in their villages in time of peace; these people, who are my king's children, must not be your slaves; you must give them their liberty, and send them back into their own country. If the Five Nations shall refuse to do this, I have express orders to declare war against them. This belt confirms my words.

“This is what I have to say to Garrangula, that he may carry to the Senecas, Onondagas, Oneidas, Cayugas, and Mohawks, the declaration which the king, my master, has commanded me to make. He doth not wish them to force him to send a great army to Cadaracqui Fort, to begin a war, which must be

fatal to them. He would be sorry that this fort, *that was the work of peace*, should become the prison of your warriors. We must endeavour, on both sides, to prevent such misfortunes. The French, who are the brethren and friends of the Five Nations, will never trouble their repose, provided that the satisfaction which I demand, be given; and that the treaties of peace be hereafter observed. I shall be extremely grieved, if my words do not produce the effect which I expect from them; for then I shall be obliged to join with the governor of New-York, who is commanded by his master to assist me, and burn the castles of the Five Nations, and destroy you. This belt confirms my words.

Garrangula heard these threats with contempt, because he had learnt the distressed state of the French army, and knew that they were incapable of executing the designs with which they set out; and, therefore, after walking five or six times round the circle, he answered the French governor, who sat in an elbow chair, in the following strain:

"Yonnondio, I honour you, and the warriors that are with me likewise honour you. Your interpreter has finished your speech; I now begin mine. My words make haste to reach your ears: hearken to them.

"Yonnondio, you must have believed, when you left Quebec, that the sun had burnt up all the forests, which render our country inaccessible to the French, or that the lakes had so far overflown the banks, that they had surrounded our castles, and that it was impossible for us to get out of them. Yes, Yonnondio, surely you must have dreamt so,



and the curiosity of seeing so great a wonder has brought you so far. Now you are undeceived, since that I and the warriors here present, are come to assure you, that the Senecas, Cayugas, Onondagas, Oneidas, and Mohawks, are yet alive. I thank you, in their name, for bringing back into their country the calumet, which your predecessor received from their hands. It was happy for you, that you left under ground that murdering hatchet that has been so often dyed in the blood of the French. Hear, Yonnondio, I do not sleep, I have my eyes open, and the sun, which enlightens me, discovers to me a great captain at the head of a company of soldiers, who speaks as if he were dreaming. He says that he only came to the lake to smoke on the great calumet with the Onondagas. But Garrangula says, that he sees the contrary, that it was to knock them on the head, if sickness had not weakened the arms of the French.

"I see Yonnondio raving in a camp of sick men, whose lives the great spirit has saved by inflicting this sickness on them. Hear, Yonnondio, our women had taken their clubs, our children and old men had carried their bows and arrows into the heart of your camp, if our warriors had not disarmed them, and kept them back, when your messenger, Ohguesse, came to our castles. It is done, and I have said it. Hear, Yonnondio, we plundered none of the French, but those that carried guns, powder, and ball to the Twightwies and Chictaghicks, because those arms might have cost us our lives. Herein we follow the example of the Jesuits, who stave all the kegs of rum brought to our castles, lest the drunken Indians

should knock them on the head. Our warriors have not beaver enough to pay for all these arms that they have taken, and our old men are not afraid of the war. This belt preserves my words.

" We carried the English into our lakes to trade there with the Utawawas and Quatoghies, as the Adirondacks brought the French to our castles, to carry on the trade, which the English say is theirs. We are born free ; we neither depend on Y. nor Corlear.

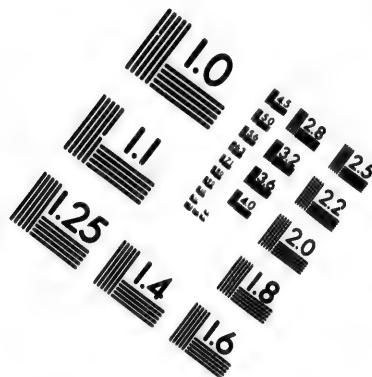
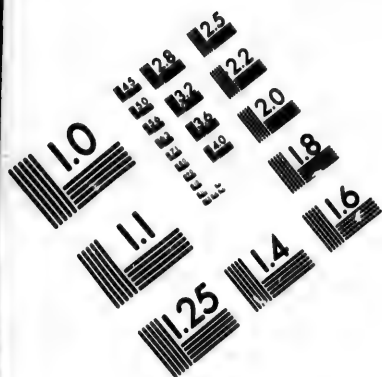
" We may go where we please, and use whom we please, and buy and sell as we please : if your allies be your slaves, use them as such, command them to receive no other but your people. This belt preserves my words.

" We knocked the Twightwies and Chictaghicks on the head, because they had cut down the trees of peace, which were the limits of our country. They have hunted beavers on our lands : they have acted contrary to the customs of all Indians ; for they left none of the beavers alive, they killed both male and female. They brought the Satanas\* into the country to take part with them, after they had concerted ill designs against us. We have done less than either the English or French, that have usurped the lands of so many Indian nations, and chased them from their own country. This belt preserves my words.

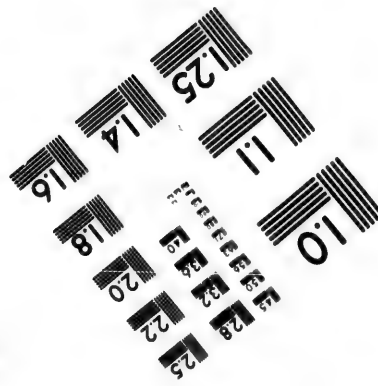
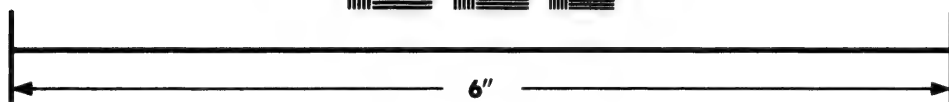
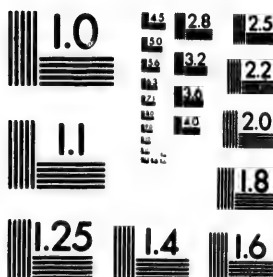
" Hear, Yonnondio, what I say is the voice of all the Five Nations. Hear what they answer—open your ears to what they speak. The Senecas, Cayu-

\* By the French called Sauonnons.





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gas, Onondagas, Oneidas, and Mohawks say, that when they buried the hatchet at Cadaracqui, (in the presence of your predecessor,) in the middle of the fort, they planted the tree of peace in the same place, to be there carefully preserved, that in place of a retreat for soldiers, that fort might be a rendezvous for merchants: that in place of arms and ammunition of war, beavers and merchandise should only enter there.

"Hear, Yonnondio, take care for the future, that so great a number of soldiers as appear there do not choke the tree of peace planted in so small a fort. It will be a great loss, if, after it had so easily taken root, you should stop its growth and prevent its covering your country and ours with its branches. I assure you, in the name of the Five Nations, that our warriors shall dance to the calumet of peace under its leaves, and shall remain quiet on their mats, and shall never dig up the hatchet till their brother Yonnondio or Corlear shall either jointly or separately endeavour to attack the country which the Great Spirit has given to our ancestors. This belt preserves my words, and this other, the authority which the Five Nations have given me."

Then Garrangula, addressing himself to Monsieur La Main, said, "Take courage Ohguesse, you have spirit, speak, explain my words, forget nothing, tell all that your brethren and friends say to Yonnondio, your governor, by the mouth of Garrangula, who loves you, and desires you to accept of this present of beaver and take part with me in my feast, to which I invite you. This present of beaver is sent to Yonnondio, on the part of the Five Nations."

Enraged at this bold reply, De la Barre, as soon as the peace was concluded, retired to Montreal, and ingloriously finished an expensive campaign, as doctor Colden observes, in a scold with an old Indian.

De la Barre was succeeded by the marquis De Nonville, colonel of the dragoons, who arrived with a reinforcement of troops in 1685. The marquis was a man of courage and an enterprising spirit, and not a little animated by the consideration that he was sent over to repair the disgrace which his predecessor had brought upon the French colony. The year after his arrival at Quebec, he wrote a letter to the minister in France, recommending the scheme of erecting a stone fort sufficient to contain four or five hundred men, at Niagara, not only to exclude the English from the lakes, but to command the fur trade and subdue the Five Nations. Dongan, who was jealous of his designs, took umbrage at the extraordinary supplies sent to Fort Frontenac, and wrote to the French governor, signifying that if he attacked the Confederates, he would consider it as a breach of the peace subsisting between the two crowns; and to prevent his building a fort at Niagara, he protested against it, and claimed the country as dependent upon the province. De Nonville, in his answer, denied that he intended to invade the Five Nations, though the necessary preparations for that purpose were then carrying on, and yet Charlevoix commends him for his piety and uprightness, "*egalement estimable* (says the Jesuit,) *pour sa valeur, sa droiture, et sa piété.*" Colonel Dongan, who knew the importance of our

Indian alliance, placed no confidence in the declarations of the marquis, but exerted himself in preparing the Confederates for a war; and the French author just mentioned, does him honour, while he complains of him as a perpetual obstacle in the way of the execution of their schemes. Our allies were now triumphing in their success over the Chictaghics, and meditating a war with the Twightwies, who had disturbed them in their beaver-hunting. De Nonville, to prevent the interruption of the French trade with the Twightwies, determined to divert the Five Nations, and carry the war into their country. To that end, in 1687, he collected two thousand troops and six hundred Indians at Montreal, and issued orders to all the officers in the more westerly country, to meet him with additional succours at Niagara, on an expedition against the Senecas. An English party under one M'Gregory, at the same time was gone out to trade on the lakes, but the French, notwithstanding the peace then subsisting between the two crowns, intercepted them, seized effects and imprisoned their persons. Monsieur Tonti, commandant among the Chictaghics, who was coming to the general's rendezvous at Niagara, did the like to another English party which he met with in lake Erie.\* The Five Nations, in the mean time, were preparing to give the French army a suitable reception. Monsieur Companie, with two or three hundred Canadians in an advanced party surprised two villages of the

\* Both these attacks were open infractions of the treaty at Whitehall, executed in November, 1686; by which it was agreed, that the Indian trade in America, should be free to the English and French.



Confederates, who, at the invitation and on the faith of the French, seated themselves down about eight leagues from lake Cadaracqui or Ontario. To prevent their escape with intelligence to their countrymen, they were carried to the fort, and all but thirteen died in torments at the stake, singing with an heroic spirit, in their expiring moments, the perfidy of the French. The rest, according to the express orders of the French king, were sent to the galleys in Europe. The marquis having embarked his whole army in canoes, set out from the fort at Cadaracqui on the 23d of June, one half of them passing along the north, and the other on the south side of the lake; and both arrived the same day at Tyrondequait, and shortly after set out on their march towards the chief village of the Senecas, at about seven leagues distance. The main body was composed of the regulars and militia; the front and rear of the Indians and traders. The scouts advanced the second day of their march, as far as the corn of the village, and within pistol-shot of five hundred Senecas, who lay upon their bellies undiscovered. The French, who imagined the enemy were all fled, quickened their march to overtake the women and old men. But no sooner had they reached the foot of a hill, about a mile from the village, than the Senecas raised the war shout, and in the same instant charged upon the whole army both in the front and rear. Universal confusion ensued. The battalions divided, fired upon each other, and flew into the wood. The Senecas improved the disorder of the enemy, till they were repulsed by the French Indians. According to Charlevoix's ac-

count, which may justly be suspected, the enemy lost but six men, and had twenty wounded in the conflict. Of the Senecas, he says, sixty were wounded and forty-five slain. The marquis was so much dispirited, that he could not be persuaded to pursue the enemy that day; which gave the Senecas an opportunity to burn their village and get off. Two old men remained in the castle to receive the general, and regale the barbarity of his Indian allies. After destroying the corn in this and several other villages, the army retired to the banks of the lake, and erected a fort with four bastions on the south-east side of the straits at Niagara, in which they left one hundred men, under the command of Le Chevalier de la Troye, with eight months' provisions; but these being closely blocked up, all, except seven or eight of them, who were accidentally relieved, perished through famine.\* Soon after this expedition, colonel Dongan met the Five Nations at Albany. To what intent, appears from the speech he made to them on the 5th of August, which I choose to lay before the reader, to show his vigilance and zeal for the interest of his master, and the common weal of the province committed to his care.

"Brethren, I am very glad to see you here in this house, and am heartily glad that you have

\* Nothing can be more perfidious and unjust, than this attack upon our Confederates. The two crowns had but just concluded a treaty for the preservation of the peace. La Hontan, one of the French historians censures De Nonville's conduct, and admits the British title to the command of the lakes, but Charlevoix blames him, as he does Hennepin, De L'Isle, and every other author, who confesses the truth, to the prejudice of the ambitious claims of the court of France.

sustained no greater loss by the French, though I believe it was their intention to destroy you all, if they could have surprised you in your castles.

"As soon as I heard their design to war with you, I gave you notice, and came up hither myself, that I might be ready to give all the assistance and advice that so short a time would allow me.

"I am now about sending a gentleman to England, to the king, my master, to let him know, that the French have invaded his territories on this side of the great Lake, and warred upon the brethren, his subjects. I, therefore, would willingly know, whether the brethren have given the governor of Canada any provocation or not; and if they have, how, and in what manner; because I am obliged to give a true account of this matter. This business may cause a war between the king of England, and the French king, both in Europe and here, and therefore I must know the truth.

"I know the governor of Canada dare not enter into the king of England's territories, in a hostile manner, without provocation, if he thought the brethren were the king of England's subjects; but you have, two or three years ago, made a covenant-chain with the French, contrary to my command, which I knew could not hold long, being void of itself among Christians; for as much as subjects (as you are) ought not to treat with any foreign nation, it not lying in your power. You have brought this trouble on yourselves, and, as I believe, this is the only reason of their falling on you at this time.

“Brethren, I took it very ill, that after you had put yourselves into the number of the great king of England’s subjects, you should ever offer to make peace or war, without my consent. You know that we can live without you, but you cannot live without us ; you never found that I told you a lie, and I offered you the assistance you wanted, provided that you would be advised by me ; for I know the French better than any of you do.

“Now since there is a war begun upon you by the governor of Canada, I hope without any provocation by you given, I desire and command you, that you hearken to no treaty but by my advice ; which if you follow, you shall have the benefit of the great chain of friendship between the great king of England, and the king of France, which came out of England the other day, and which I have sent to Canada by Anthony le Junard ; in the mean time, I will give you such advice as will be for your good ; and will supply you with such necessities as you will have need of.

“1st. My advice is, as to what prisoners of the French you shall take, that you draw not their blood, but bring them home, and keep them to exchange for your people, which they have prisoners already, or may take hereafter.

“2dly. That, if it be possible that you can order it so, I would have you take one or two of your wisest sachems, and one or two of your chief captains of each nation, to be a council to manage all affairs of the war. They to give orders to the rest of the officers what they are to do, that your

designs may be kept private ; for after it comes among so many people, it is blazed abroad, and your designs are often frustrated ; and those chief men should keep a correspondence with me by a trusty messenger.

“ 3dly. The great matter under consideration with the brethren is, how to strengthen themselves, and weaken their enemy. My opinion is, that the brethren should send messengers to the Utawawas, Twightwies, and the farther Indians, and to send back likewise some of the prisoners of these nations, if you have any left, to bury the hatchet, and to make a covenant-chain, that they may put away all the French that are among them, and that you will open a path for them this way (they being the king of England’s subjects likewise, though the French have been admitted to trade with them ; for all that the French have in Canada, they had it of the great king of England,) that, by that means, they may come hither freely, where they may have every thing cheaper than among the French : that you and they may join together against the French, and make so firm a league, that whoever is an enemy to one, must be to both.

“ 4thly. Another thing of concern is, that you ought to do what you can to open a path for all the north Indians and Mahikanders that are among the Utawawas and further nations. I will endeavour to do the same to bring them home. For, they not daring to return home your way, the French keep them there on purpose to join with the other nations against you, for your destruction ; for you know that one of them is worse than six of the others ; there-

fore all means must be used to bring them home, and use them kindly as they pass through your country.

"5thly. My advice further is, that messengers go, in behalf of all the Five Nations, to the Christian Indians at Canada, to persuade them to come home to their native country. This will be another great means to weaken your enemy; but if they will not be advised, you know what to do with them.

"6thly. I think it very necessary, for the brethren's security and assistance, and to the endamaging the French, to build a fort upon the lake, where I may keep stores and provisions in case of necessity; and therefore I would have the brethren let me know what place will be most convenient for it.

"7thly. I would not have the brethren keep their corn in their castles, as I hear the Onondagas do, but bury it a great way in the woods, where few people may know where it is, for fear of such an accident as has happened to the Senecas.

"8thly. I have given my advice in your general assembly, by Mr. Dirk Wessels and Akus, the interpreter, how you are to manage your parties, and how necessary it is to get prisoners, to exchange for your own men that are prisoners with the French, and I am glad to hear that the brethren are so united as Mr. Dirk Wessels tells me you are, and that there was no rotten members nor French spies among you.

"9thly. The brethren may remember my advice, which I sent you this spring, not to go to Cadaracqui; if you had, they would have served you, as

they did your people that came from hunting thither, for I told you that I knew the French better than you did.

"10thly. There was no advice or proposition that I made to the brethren all the time that the priest lived at Onondaga, but what he wrote to Canada, as I found by one of his letters, which he gave to an Indian to carry to Canada, but which was brought hither; therefore, I desire the brethren not to receive him, or any French priest any more, having sent for English priests, with whom you may be supplied to your content.

"11thly. I would have the brethren look out sharp, for fear of being surprised. I believe all the strength of the French will be at their frontier places, viz. at Cadaracqui and Oniagara, where they have built a fort now, and at Trois Rivieres, Montreal, and Chambly.

"12thly. Let me put you in mind again, not to make any treaties without my means, which will be more advantageous for you, than your doing it by yourselves, for then you will be looked upon as the king of England's subjects; and let me know, from time to time, every thing that is done.

"Thus far I have spoken to you relating to the war."

Not long after this interview, a considerable party of Mohawks and Mahikanders, or River Indians, beset Fort Chambly, burnt several houses, and returned with many captives to Albany. Forty Onondagans, about the same time, surprised a few soldiers near Fort Frontenac, whom they confined instead of the Indians sent home to the galleys,

notwithstanding the utmost address was used to regain them, by Lamberville, a French priest, who delivered them two belts, to engage their kindness to the prisoners, and prevent their joining the quarrel with the Senecas. The belts being sent to colonel Dongan, he wrote to De Nonville, to demand the reason of their being delivered. Pere le Vailant was sent here about the beginning of the year 1688, under colour of bringing an answer, but in reality as a spy. Colonel Dongan told him, that no peace could be made with the Five Nations, unless the Indians sent to the Galleys, and the Caghnuga proselytes were returned to their respective cantons, the forts at Niagara and Frontenac razed, and the Senecas had satisfaction made them for the damage they had sustained. The jesuit, in his return, was ordered not to visit the Mohawks.

Dongan, who was fully sensible of the importance of the Indian interest to the English colonies, was for compelling the French to apply to him in all their affairs with the Five Nations; while they, on the other hand, were for treating with them independent of the English. For this reason, among others, he refused them the assistance they frequently required, till they acknowledged the dependence of the Confederates on the English crown. King James, a poor bigotted, popish, priest-ridden prince, ordered his governor to give up this point, and to persuade the Five Nations to send messengers to Canada, to receive proposals of peace from the French. For this purpose, a cessation of arms and mutual re-delivery of prisoners was agreed upon. Near 1,200 of the Confederates attended this ne-



gotiation at Montreal, and in their speech to De Nonville, insisted with great resolution, upon the terms proposed by colonel Dongan to father Le Vaillant. The French governor declared his willingness to put an end to the war, if all his allies might be included in the treaty of peace, if the Mohawks and Senecas would send deputies to signify their concurrence, and the French might supply Fort Frontenac with provisions. The Confederates, according to the French accounts, acceded to these conditions, and the treaty was ratified in the field. But a new rupture not long after ensued, from a cause entirely unsuspected. The Dinondadies had lately inclined to the English trade at Missilimakinac, and their alliance was therefore become suspected by the French. Adario, their chief, thought to regain the ancient confidence, which had been reposed in his countrymen, by a notable action against the Five Nations; and for that purpose put himself at the head of one hundred men. Nothing was more disagreeable to him, than the prospect of peace between the French and the Confederates; for that event would not only render the amity of the Dinondadies useless, but give the French an opportunity of resenting their late favourable conduct towards the English. Impressed with these sentiments, out of affection to his country, he intercepted the ambassadors of the Five Nations, at one of the falls in Cadaracqui river, killed some, and took others prisoners, telling them that the French governor had informed him, that fifty warriors of the Five Nations were coming that way. As the Dinondadies and Confederates were then at war,

the ambassadors were astonished at the perfidy of the French governor, and could not help communicating the design of their journey. Adario, in prosecution of his crafty scheme, counterfeited the utmost distress, anger, and shame, on being made the ignominious tool of De Nonville's treachery, and addressing himself to Dekanesora, the principal ambassador, said to him, "Go, my brethren, I untie your bonds, and send you home again, though our nations be at war. The French governor has made me commit so black an action, that I shall never be easy after it, till the Five Nations shall have taken full revenge." This outrage and indignity upon the rights of ambassadors, the truth of which they did not in the least doubt, animated the Confederates to the keenest thirst after revenge; and, accordingly, 1,200 of their men, on the 26th of July, 1688, landed on the south side of the island of Montreal, while the French were in perfect security; burnt their houses, sacked their plantations, and put to the sword all the men, women, and children, without the skirts of the town. A thousand French were slain in this invasion, and twenty-six carried into captivity, and burnt alive. Many more were made prisoners in another attack in October, and the lower part of the island wholly destroyed. Only three of the Confederates were lost, in all this scene of misery and desolation.\*

Never before did Canada sustain such a heavy

\* I have followed Dr. Colden in the account of this attack, who differs from Charlevoix. That jesuit tells us, that the invasion was late in August, and the Indians 1500 strong; and as to the loss of the French, he diminishes it only to two hundred souls.

blow. The news of this attack on Montreal no sooner reached the garrison at the Lake Ontario, than they set fire to the two barks, which they had built there, and abandoned the fort, leaving a match to twenty-eight barrels of powder, designed to blow up the works. The soldiers went down the river in such precipitation, that one of the battoes and her crew were all lost in shooting a fall. The Confederates, in the mean time, seized the fort, the powder, and the stores ; and of all the French allies, who were vastly numerous, only the Nepicirinians and Kiapous adhered to them in their calamities. The Utawawas, and seven other nations, instantly made peace with the English ; and but for the uncommon sagacity and address of the *Sieur Perot*, the Western Indians would have murdered every Frenchman amongst them. Nor did the distresses of the Canadians end here. Numerous scouts from the Five Nations, continually infested their borders. The frequent depredations that were made, prevented them from the cultivation of their fields, and a distressing famine raged through the whole country. Nothing but the ignorance of the Indians, in the art of attacking fortified places, saved Canada from being now utterly cut off. It was, therefore, unspeakably fortunate to the French, that the Indians had no assistance from the English, and as unfortunate to us, that our colonies were then incapable of affording succours to the Confederates, through the malignant influence of those execrable measures, which were pursued under the infamous reign of king James the second. Colonel Dongan, whatever his conduct might have been in civil affairs,

did all that he could in those relating to the Indians, and fell at last into the king's displeasure, through his zeal for the true interest of the province.

While these things were transacting in Canada, a scene of the greatest importance was opening at New-York. A general disaffection to the government prevailed among the people. Papists began to settle in the colony under the smiles of the governor. The collector of the revenues, and several principal officers, threw off the mask, and openly avowed their attachment to the doctrines of Rome. A Latin school was set up, and the teacher strongly suspected for a jesuit. The people of Long Island, who were disappointed in their expectation of mighty boons promised by the governor on his arrival, were become his personal enemies; and in a word, the whole body of the people trembled for the Protestant cause. Here the leaven of opposition first began to work. Their intelligence from England, of the designs there in favour of the prince of Orange, blew up the coals of discontent, and elevated the hopes of the disaffected. But no man dared to spring into action, till after the rupture in Boston. Sir Edmund Andross, who was perfectly devoted to the arbitrary measures of king James, by his tyranny in New-England, had drawn upon himself the universal odium of a people, animated with the love of liberty, and in the defence of it resolute and courageous; and, therefore, when they could no longer endure his despotic rule, they seized and imprisoned him, and afterwards sent him to England. The government, in the mean time, was vested in the hands of a committee for the safety

of the people, of which Mr. Bradstreet was chosen president. Upon the news of this event, several captains of our militia convened themselves to concert measures in favour of the prince of Orange. Amongst these, Jacob Leisler was the most active. He was a man in tolerable esteem among the people, and of a moderate fortune, but destitute of every qualification necessary for the enterprise. Milborne, his son-in-law, an Englishman, directed all his councils, while Leisler as absolutely influenced the other officers.

The first thing they contrived, was to seize the garrison in New-York; and the custom, at that time, of guarding it every night by the militia, gave Leisler a fine opportunity of executing the design. He entered it with forty-nine men, and determined to hold it till the whole militia should join him. Colonel Dongan, who was about to leave the province, then lay embarked in the bay, having a little before resigned the government to Francis Nicholson, the lieutenant-governor. The council, civil officers, and magistrates of the city, were against Leisler, and therefore many of his friends were at first fearful of openly espousing a cause disapproved by the gentlemen of figure. For this reason, Leisler's first declaration in favour of the prince of Orange, was subscribed only by a few, among several companies of the trained bands. While the people, for four days successively, were in the utmost perplexity to determine what part to choose, being solicited by Leisler on the one hand, and threatened by the lieutenant-governor on the other, the town was alarmed with a report, that three

ships were coming up with orders from the prince of Orange. This falsehood was very seasonably propagated to serve the interest of Leisler; for on that day, the 3d of June, 1689, his party was augmented by the addition of six captains and four hundred men in New-York, and a company of seventy men from East-Chester, who all subscribed a second declaration,\* mutually covenanting to hold the fort for the prince. Colonel Dongan continued till this time in the harbour, waiting the issue of these commotions; and Nicholson's party, being now unable to contend with their opponents, were totally dispersed, the lieutenant-governor himself absconding, the very night after the last declaration was signed.

Leisler being now in complete possession of the fort, sent home an address to king William and queen Mary, as soon as he received the news of their accession to the throne. It is a tedious, incorrect, ill-drawn narrative of the grievances which the people had endured, and the methods lately taken to secure themselves, ending with a recognition of the sovereignty of the king and queen over the whole English dominions.

This address was soon followed by a private letter from Leisler to king William, which, in very broken English, informs his majesty of the state of the garrison, the repairs he had made to it, and the temper of the people, and concludes with strong protestations of his sincerity, loyalty, and zeal. Jost Stoll, an ensign, on the delivery of this letter

\* See note I.

to the king, had the honour to kiss his majesty's hand, but Nicholson, the lieutenant-governor, and one Ennis, an episcopal clergyman, arrived in England before him; and by falsely representing the late measures in New-York, as proceeding rather from their aversion to the Church of England, than zeal for the prince of Orange, Leisler and his party missed the rewards and notice, which their activity for the revolution justly deserved. For though the king made Stoll the bearer of his thanks to the people for their fidelity, he so little regarded Leisler's complaints against Nicholson, that he was soon after preferred to the government of Virginia. Dongan returned to Ireland, and it is said succeeded to the earldom of Limerick.

Leisler's sudden investiture with supreme power over the province, and the probable prospects of king William's approbation of his conduct, could not but excite the envy and jealousy of the late council and magistrates, who had refused to join in the glorious work of the revolution; and hence the spring of all their aversion, both to the man and his measures. Colonel Bayard, and Courtland, the mayor of the city, were at the head of his opponents, and finding it impossible to raise a party against him in the city, they very early retired to Albany, and there endeavoured to foment the opposition. Leisler, on the other hand, fearful of their influence, and to extinguish the jealousy of the people, thought it prudent to admit several trusty persons to a participation of that power, which the militia, on the 1st of July, had committed solely to himself. In conjunction with these, (who, after the

Boston example, were called The Committee of Safety,) he exercised the government, assuming to himself only, the honour of being president in their councils. This model continued till the month of December, when a packet arrived with a letter from the lords Carmarthen, Halifax, and others, directed "To Francis Nicholson, Esq., or in his absence, to such as for the time being, take care for preserving the peace and administering the laws, in their majesties' province of New-York, in America." This letter was dated the 29th of July, and was accompanied with another from lord Nottingham, dated the next day, which after empowering Nicholson to take upon him the chief command, and to appoint for his assistance as many of the principal freeholders and inhabitants as he should think fit, requiring also "to do every thing appertaining to the office of lieutenant-governor, according to the laws and customs of New-York, until further orders."

Nicholson being absconded when this packet came to hand, Leisler considered the letter as directed to himself, and from this time issued all kinds of commissions in his own name, assuming the title, as well as authority, of lieutenant-governor. On the 11th of December, he summoned the Committee of Safety, and agreeable to their advice, swore the following persons for his council:—Peter de Lanoy, Samuel Staats, Hendrick Jansen, and Johannes Vermilie, for New-York; Gerardus Beekman, for King's County; for Queen's County, Samuel Edsel; Thomas Williams, for West Chester, and William Lawrence, for Orange County.

Except the eastern inhabitants of Long Island,



all the southern part of the colony cheerfully submitted to Leisler's command. The principal freeholders, however, by respectful letters, gave him hopes of their submission, and thereby prevented his betaking himself to arms, while they were privately soliciting the colony of Connecticut to take them under its jurisdiction. They had, indeed, no aversion to Leisler's authority, in favour of any other party in the province, but were willing to be incorporated with a people, from whence they had originally colonised; and, therefore, as soon as Connecticut declined their request, they openly appeared to be advocates for Leisler. At this juncture the Long Island representation was drawn up, which I have more than once had occasion to mention.

The people of Albany, in the mean time, were determined to hold the garrison and city for king William, independent of Leisler, and on the 26th of October, which was before the packet arrived from lord Nottingham, formed themselves into a convention for that purpose. As Leisler's attempt to reduce this country to his command, was the original cause of the future divisions in the province, and in the end brought about his own ruin, it may not be improper to see the resolution of the convention, a copy of which was sent down to him, at large.

“PETER SCHUYLER, *Mayor*; DIRK WESSELS, *Recorder*; JAN WENDAL, JAN JANSEN BLEEKER, CLAES RIPSE, DAVID SCHUYLER, ALBERT RYCKMAN, *Aldermen*. KILLIAN V. RENSLAER, *Justice*; Capt. MARTE GERRITSE, *Justice*; Capt. GERRIT

TEUNISSE ; DIRK TEUNISE, *Justice* ; Lieut. ROBERT SAUNDERS, JOHN CUYLER, GERRIT RYERSE, EVERT BANKER, RYNIER BARENTSE.

*“ Resolved,* since we are informed by persons coming from New-York, that captain Jacob Leisler is designed to send up a company of armed men, upon pretence to assist us in this country, who intend to make themselves master of their majesties’ fort and this city, and carry divers persons and chief officers of this city prisoners to New-York, and so disquiet and disturb their majesties’ liege people, that a letter be writ to alderman Levinus Van Schaic, now at New-York, and lieutenant Jochim Staets, to make narrow inquiry of the business, and to signify to the said Leisler, that we have received such information ; and withal acquaint him, that notwithstanding we have the assistance of ninety-five men from our neighbours of New-England, who are now gone for, and one hundred men upon occasion, to command, from the county of Ulster, which we think will be sufficient this winter, yet we will willingly accept any such assistance as they shall be pleased to send for the defence of their majesties’ county of Albany : provided they be obedient to, and obey such orders and commands as they shall, from time to time, receive from the convention ; and that by no means they will be admitted to have the command of their majesties’ fort or this city ; which we intend, by God’s assistance, to keep and preserve for the behoof of their majesties, William and Mary, king and queen of England, as we hitherto have done since their pro-

clamation ; and if you hear that they persevere with such intentions, so to disturb the inhabitants of this county, that you then, in the name and behalf of the convention and inhabitants of the city and county of Albany, protest against the said Leisler, and all such persons that shall make attempt, for all losses, damages, bloodshed, or whatsoever mischiefs may ensue thereon ; which you are to communicate with all speed, as you perceive their design."

Taking it for granted that Leisler at New-York, and the convention at Albany, were equally affected to the revolution, nothing could be more egregiously foolish, than the conduct of both parties, who by their intestine divisions, threw the province into convulsions, and sowed the seeds of mutual hatred and animosity, which for a long time after, greatly embarrassed the public affairs of the colony. When Albany declared for the prince of Orange, there was nothing else that Leisler could properly require ; and rather than sacrifice the public peace of the province, to the trifling honour of resisting a man who had no evil designs, Albany ought, in prudence, to have delivered the garrison into his hands, till the king's definitive orders should arrive. But while Leisler, on the one hand, was inebriated with his new-gotten power, so on the other, Bayer, Courtland, Schuyler, and others, could not brook a submission to the authority of a man, mean in his abilities, and inferior in his degree. Animated by these principles, both parties prepared, the one to reduce, if I may use the expression, the other to retain, the garrison of Albany. Mr. Livingston, a

principal agent for the convention, retired into Connecticut, to solicit the aid of that colony, for the protection of the frontiers against the French. Leisler suspecting that they were to be used against him, endeavoured not only to prevent these supplies, but wrote letters to have Livingston apprehended as an enemy to the reigning powers, and to procure succours from Boston, falsely represented the convention as in the interest of the French and king James.

Jacob Milborne was commissioned for the reduction of Albany. Upon his arrival there, a great number of the inhabitants armed themselves and repaired to the fort, then commanded by Mr. Schuyler, while many others followed the other members of the convention, to a conference with him at the city-hall. Milborne, to proselyte the crowd, declaimed much against king James, popery, and arbitrary power; but his oratory was lost upon the hearers, who after several meetings, still adhered to the convention. Milborne then advanced with a few men up to the fort, and Mr. Schuyler had the utmost difficulty to prevent both his own men, and the Mohawks, who were then in Albany, and perfectly devoted to his service, from firing upon Milborne's party, which consisted of an inconsiderable number. In these circumstances, he thought proper to retreat, and soon after departed from Albany. In the spring, he commanded another party upon the same errand, and the distress of the country on an Indian irruption, gave him all the desired success. No sooner was he possessed of the garrison, than most of the principal members

of the convention absconded. Upon which, their effects were arbitrarily seized and confiscated, which so highly exasperated the sufferers, that their posterity, to this day, cannot speak of these troubles, without the bitterest invectives against Leisler and all his adherents.

In the midst of those intestine confusions at New-York, the people of New-England were engaged in a war with the Owenagungas, Ourages, and Penocoks. Between these and the Schakook Indians, there was then a friendly communication, and the same was suspected of the Mohawks, among whom some of the Owenagungas had taken sanctuary. This gave rise to a conference between several commissioners from Boston, Plymouth, and Connecticut, and the Five Nations, at Albany, in September, 1689, the former endeavouring to engage the latter against those Eastern Indians, who were then at war with the New-England colonies. Tahajadoris, a Mohawk sachem, in a long oration, answered the English message, and however improbable it may seem to Europeans, repeated all that had been said the preceding day. The art they have in assisting their memories is this:—The sachem who presides, has a bundle of sticks prepared for the purpose, and at the close of every principal article of the message delivered to them, gives a stick to another sachem charging him with the remembrance of it. By this means the orator, after a previous conference with the Indians, is prepared to repeat every part of the message, and give it its proper reply. This custom is invariably pursued in all their public treaties.

The conference did not answer the expectation of the people of New-England, the Five Nations discovering a great disinclination to join in the hostilities against the Eastern Indians. To atone for which, they gave the highest protestations of their willingness to distress the French, against whom the English had declared war on the 7th of May preceding. That part of the speech ratifying their friendship with the English colonies, is singularly expressed. "We promise to preserve the chain inviolably, and wish that the sun may always shine in peace over all our heads that are comprehended in this chain.\* We give two belts. One for the sun, and the other for its beams. We make fast the roots of the tree of peace and tranquillity which is planted in this place. Its roots extend as far as the utmost of your colonies. If the French should come to shake this tree, we would feel it by the motion of its roots, which extend into our country. But we trust it will not be in the governor of Canada's power to shake this tree, which has been so firmly and long planted with us."

Nothing could have been more advantageous to these colonies, and especially to New-York, than the late success of the Five Nations against Canada. The miseries to which the French were reduced, rendered us secure against their inroads, till the work of the revolution was in a great measure accomplished; and to their distressed condition, we must principally ascribe the defeat of the French design, about

\* The Indian conception of the league between them and us, is couched under the idea of a chain extended from a ship to a tree, and every renewal of this league they call brightening the chain.

this time, to make a conquest of the province. De Calliers, who went to France in 1688, first projected the scheme\*; and the troubles in England encouraged the French Court to make the attempt. Cassiniere commanded the ships, which sailed for that purpose from Rochefort; subject, nevertheless, to the Count de Frontenac, who was general of the land forces, destined to march from Canada by the route of Sorel-River and the Lake Champlain. The fleet and troops arrived at Chebucta, the place of rendezvous, in September; from whence the count proceeded to Quebec, leaving orders with Cassiniere to sail for New-York, and continue in the bay, in sight of the city, but beyond the fire of our cannon, till the first of December: when, if he received no intelligence from him, he was ordered to return to France, after unlading the ammunition, stores, and provisions at Port-Royal†. The count was in high spirits, and fully determined upon the enterprise, till he arrived at Quebec; where he news of the success of the Five Nations against Montreal, the loss of his favourite fort at Lake Ontario, and the advanced season of the year, defeated his aims, and broke up the expedition. De Nonville who was recalled, carried the news of this disappointment to the court of France, leaving the chief command of the country in the hands of Count

\* Charlevoix has published an extract of the memorial presented to the French king. The force demanded for this enterprise was to consist of 1,300 regulars, and 300 Canadians. Albany was said to be fortified only by an inclosure of stockadoes, and a little fort with four bastions; and that it contained but 150 soldiers and 300 inhabitants. That New-York the capital of the province was open, had a stone fort with four bastions, and about 400 inhabitants, divided into eight companies.

† Now Annapolis.

Frontenac. This gentleman was a man of courage, and well acquainted with the affairs of that country. He was then in the sixty-eighth year of his age, and yet so far from consulting his ease, that in a few days after he landed at Quebec, he re-embarked in a canoe for Montreal, where his presence was absolutely necessary, to animate the inhabitants and regain their Indian alliances. A war, between the English and French crowns, being broke out, the count betook himself to every art, for concluding a peace between Canada and the Five Nations; and for this purpose, the utmost civilities were shown to Taweraket and the other Indians, who had been sent to France by De Nonville, and were now returned. Three of those Indians, who doubtless were struck with the grandeur and glory of the French monarch, were properly sent on the important message of conciliating the friendship of the Five Nations. These, agreeable to our alliance, sent two sachems to Albany, in December, with notice, that a council for that purpose was to be held at Onondaga. It is a just reflection upon the people of Albany, that they regarded the treaty so slightly, as only to send four Indians and the interpreter with instructions, in their name, to dissuade the Confederates from a cessation of arms; while the French, on the other hand, had then a Jesuit among the Oneidas. The council began on the 22d of January 1690, and consisted of eighty sachems. Sadekanaghtie, an Onondaga chief, opened the conference. The whole was managed with great art and formality, and concluded in showing a disposition to make a peace with the



French, without perfecting it; guarding, at the same time, against giving the least umbrage to the English.

Among other measures to detach the Five Nations from the British interest, and raise the depressed spirit of the Canadians, the Count de Frontenac thought proper to send out several parties against the English colonies. D'Aillebout, De Mantel, and Le Moyne, commanded that against New-York, consisting of about two hundred French and some Caghnuaga Indians, who being proselytes from the Mohawks, were perfectly acquainted with that country. Their orders were, in general, to attack New-York; but pursuing the advice of the Indians, they resolved instead of Albany, to surprise Schenectady, a village seventeen miles north-west from it, and about the same distance from the Mohawks. The people of Schenectady though they had been informed of the designs of the enemy, were in the greatest security; judging it impracticable for any men to march several hundred miles in the depth of winter, through the snow, bearing their provisions on their backs. Besides, the village was in as much confusion as the rest of the province; the officers who were posted there, being unable to preserve a regular watch, or any kind of military order. Such was the state of Schenectady, as represented by colonel Schuyler, who was at that time mayor of the city of Albany, and at the head of the Convention. A copy of his letter to the neighbouring colonies, concerning this descent upon Schenectady, dated the 15th of February, 1689-90, I have now lying before me, under his own hand.

After two and twenty days' march, the enemy fell in with Schenectady, on the 8th of February; and were reduced to such straits, that they had thoughts of surrendering themselves prisoners of war. But their scouts, who were a day or two in the village entirely unsuspected, returned with such encouraging accounts of the absolute security of the people, that the enemy determined on the attack. They entered on Saturday night about eleven o'clock, at the gates, which were found unshut; and, that every house might be invested at the same time, divided into small parties of six or seven men. The inhabitants were in a profound sleep, and unalarmed, till their doors were broke open. Never were people in a more wretched consternation. Before they were risen from their beds, the enemy entered their houses, and began the perpetration of the most inhuman barbarities. No tongue, says colonel Schuyler, can express the cruelties that were committed. The whole village was instantly in a blaze. Women with child ripped open, and their infants cast into the flames, or dashed against the posts of the doors. Sixty persons perished in the massacre, and twenty-seven were carried into captivity. The rest fled naked towards Albany, through a deep snow which fell that very night in a terrible storm; and twenty-five of these fugitives lost their limbs in the flight, through the severity of the frost. The news of this dreadful tragedy reached Albany about break of day; and universal dread seized the inhabitants of that city, the enemy being reported to be one thousand four hundred strong. A party of horse was immediately despatched to

Schenectady, and a few Mohawks then in town, fearful of being intercepted, were with difficulty sent to apprise their own castles.

The Mohawks were unacquainted with this bloody scene, till two days after it happened, our messengers being scarce able to travel through the great depth of the snow. The enemy, in the mean time, pillaged the town of Schenectady till noon the next day; and then went off with their plunder, and about forty of their best horses. The rest, with all the cattle they could find, lay slaughtered in the streets.

The design of the French, in this attack, was to alarm the fears of our Indian allies, by showing that we were incapable of defending them. Every art also was used to conciliate their friendship, for they not only spared those Mohawks who were found in Schenectady, but several other particular persons, in compliment to the Indians, who requested that favour. Several women and children were also released at the desire of captain Glen, to whom the French offered no violence, the officer declaring he had strict orders against it, on the score of his wife's civilities to certain French captives in the time of colonel Dongan.

The Mohawks, considering the cajoling arts of the French, and that the Caghnuagas who were with them, were once a part of their own body, behaved as well as could be reasonably expected. They joined a party of young men from Albany, fell upon the rear of the enemy, and either killed or captivated five and twenty. Several sachems, in the mean time, came to Albany, and very affectingly

addressed the inhabitants, who were just ready to abandon the country, urging their stay, and exciting an union of all the English colonies against Canada. Their sentiments concerning the French appear from the following speech of condolence :

“ Brethren, we do not think that what the French have done can be called a victory : it is only a farther proof of their cruel deceit. The governor of Canada sent to Onondaga, and talks to us of peace with our whole house ; but war was in his heart, as you now see by woful experience. He did the same, formerly, at Cadaracqui, and in the Seneca’s country. This is the third time he has acted so deceitfully. He has broken open our house at both ends ; formerly in the Seneca’s country, and now here. We hope, however, to be revenged of them.”

Agreeable to this declaration, the Indians soon after treated the chevalier D’Eau and the rest of the French messengers, who came to conclude the peace proposed by Taweraket, with the utmost indignity, and afterwards delivered them up to the English. Besides this, their scouts harassed the borders of the enemy, and fell upon a party of French and Indians, in the river, about one hundred and twenty miles above Montreal, under the command of Louvigni, a captain who was going to Missilimakinac, to prevent the conclusion of the peace between the Utawawas and Quatoghies, with the Five Nations. The loss in the skirmish was nearly equal on both sides. One of our prisoners was delivered to the Utawawas, who eat him. In revenge for this barbarity, the Indians attacked the island of Montreal at Trembling Point, and killed

an officer and twelve men, while another party carried off about fifteen prisoners taken at Riviere Puante, whom they afterwards slew through fear of their pursuers, and others burnt the French plantations at St. Ours. But what rendered this year most remarkable, was the expedition of Sir William Phips against Quebec. He sailed up the river with a fleet of thirty-two sail, and came before the city in October. Had he improved his time and strength, the conquest would have been easy; but by spending three days in idle consultations, the French governor brought in his forces, and entertained such a mean opinion of the English knight, that he not only despised his summons to surrender, but sent a verbal answer, in which he called king William an usurper, and poured the utmost contempt upon his subjects. The messenger who carried the summons, insisted upon a written answer, and that within an hour; but the count De Frontenac absolutely refused it, adding, "I'll answer your master by the mouth of my cannon, that he may learn that a man of my condition is not to be summoned in this manner." Upon this, Sir William made two attempts to land below the town, but was repulsed by the enemy, with considerable loss of men, cannon, and baggage. Several of the ships also cannonaded the city, but without any success. The forts at the same time returned the fire, and obliged them to retire in disorder. The French writers, in their accounts of this expedition, universally censure the conduct of Sir William, though they confess the valour of his troops. La Hontan, who was then at Quebec, says, he could not have acted in a manner

more agreeable to the French, if he had been in their interest.\*

\* Dr. Golden supposes this attack was made upon Quebec in 1691, but he is certainly mistaken. See *Life of Sir William Phips*, published at London in 1697. Oldmixon's *Brit. Empire*, and Charlevoix.

Among the causes of the ill success of the fleet, the author of the *Life of Sir William Phips*, mentions the neglect of the conjoined troops of New York, Connecticut, and the Indians, to attack Montreal, according to the original plan of operations. He tells us that they marched to the Lake, but there found themselves unprovided with battoes, and that the Indians were dissuaded from the attempt. By what authority these assertions may be supported, I know not. Charlevoix says our army was disappointed in the intended diversion, by the small-pox, which seized the camp, killed three hundred men, and terrified our Indian allies.

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THE

## HISTORY OF NEW-YORK.

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### PART III.

#### FROM THE REVOLUTION TO THE SECOND EXPEDITION AGAINST CANADA.

WHILE our allies were faithfully exerting themselves against the common enemy, Colonel Henry Sloughter, who had a commission to be governor of this Province, dated the 4th of January, 1689, arrived here, and published it on the 19th of March, 1691. Never was a governor more necessary to the province, than at this critical conjuncture; as well for reconciling a divided people, as for defending them against the wiles of a cunning adversary. But either through the hurry of the king's affairs, or the powerful interest of a favourite, a man was sent over, utterly destitute of every qualification for government, licentious in his morals, avaricious, and poor. The council present at his arrival were

JOSEPH DUDLEY,	CHUDLEY BROOK,
FREDERICK PHILIPSE,	THOMAS WILLET,
STEPHEN VAN COURTLAND,	WILLIAM PINHORNE.
GABRIEL MIENVIELLE,	

If Leisler had delivered the garrison to colonel Sloughter, as he ought to have done, upon his first landing, besides extinguishing in a great degree, the animosities then subsisting, he would, doubtless,

have attracted the favourable notice, both of the governor and the crown. But being a weak man, he was so intoxicated with the love of power, that though he had been well informed of Sloughter's appointment to the government, he not only shut himself up in the fort with Bayard and Nichols, whom he had before that time imprisoned, but refused to deliver them up, or to surrender the garrison. From this moment, he lost all credit with the governor who joined the other party against him. On the second demand of the Fort, Milborne and Delanoy came out, under pretence of conferring with his excellency, but in reality to discover his designs. Sloughter, who considered them as rebels, threw them both into goal. Leisler, upon this event, thought proper to abandon the fort, which Colonel Sloughter immediately entered. Bayard and Nichols were now released from their confinement, and sworn of the Privy Council. Leisler having thus ruined his cause, was apprehended with many of his adherents, and a commission of oyer and terminer issued to Sir Thomas Robinson, colonel Smith, and others, for their trials.

In vain did they plead the merit of their zeal for king William, since they had so lately opposed his governor. Leisler, in particular, endeavoured to justify his conduct, insisting that Lord Nottingham's letter entitled him to act in the quality of lieutenant-governor. Whether it was through ignorance or sycophancy, I know not: but the judges instead of pronouncing their own sentiments upon this part of the prisoner's defence, referred it to the governor and council, praying their opinion, whether



that letter "or any other letters, or papers, in the packet from White-Hall, can be understood, or interpreted, to be and contain any power, or direction to captain Leisler, to take the government of this province upon himself, or that the administration thereupon be holden good in law." The answer was, as might have been expected, in the negative; and Leisler and his son were condemned to death for high-treason. These violent measures drove many of the inhabitants, who were fearful of being apprehended, into the neighbouring colonies, which shortly after occasioned the passing an act of general indemnity.

From the surrender of the province to the year 1683, the inhabitants were ruled by the duke's governors and their councils, who, from time to time, made rules and orders, which were esteemed to be binding as laws. These, about the year 1674, were regularly collected under alphabetical titles; and a fair copy of them remains amongst our records to this day. They are commonly known by the name of the Duke's Laws. The title page of the book, written in the old court hand is in these bald words, "*Jus Novæ Eboracensis; vel, Leges Illustrissimo Principe Jacobi Duce Eboraci et Albanæ, etc. Institutæ et Ordinatæ, ad Observandum in Territoriis Americæ; Transcriptæ Anno Domini MDCLXXIV.*"

Those acts, which were made in 1683, and after the duke's accession to the throne, when the people were admitted to a participation of the legislative power, are for the most part rotten, defaced, or lost. Few minutes relating to them remain on the

council books, and none in the journals of the house. As this assembly, in 1691, was the first after the revolution, it may not be improper to take some particular notice of its transactions.\*

It began the 9th of April, according to the writs of summonses issued on the 20th of March preceding. The Journal of the house opens with a list of the members returned by the sheriffs.

*City and County of New-York—*

James Graham,  
William Merrett,  
Jacobus Van Courtlandt,  
Johannes Kipp.

*City and County of Albany—*

Derick Wessells,  
Levinus Van Scayck.

*County of Richmond—*

Elias Dukesbury,  
John Dally.

*County of West-Chester—*

John Pell.

*County of Suffolk—*

Henry Pierson,  
Matthew Howell.

\* All laws made here, antecedent to this period, are disregarded both by the legislature and the courts of law. In the collection of our acts published in 1752, the compilers were directed to begin at this assembly. The validity of the old grants of the powers of government, in several American colonies, is very much doubted in this province.

*Ulster and Dutchess County—*

Henry Beekman,  
Thomas Garton.

*Queen's County—*

John Bound,  
Nathaniel Percall.

*King's County—*

Nicholas Stillwell,  
John Poland.

The members for Queen's county, being Quakers, were afterwards dismissed, for refusing the oaths directed by the governor's commission, but all the rest were qualified before two commissioners appointed for that purpose.

James Graham was elected their speaker, and approved by the governor.

The majority of the members of this assembly were against the measures which Leisler pursued in the latter part of his time, and hence we find the house, after considering a petition signed by sundry persons against Leisler, unanimously resolved, that his dissolving the late convention, and imprisoning several persons, was tumultuous, illegal and against their majesties' right, and that the late depredations on Schenectady, were to be attributed to his usurpation of all power.

They resolved, against the late forcible seizures made of effects of the people, and against the levying of money on their majesties' subjects. And as

to Leisler's holding the fort against the governor, it was voted to be an act of rebellion.

The house having, by these agreeable resolves, prepared the way of their access to the governor, addressed him in these words.

“ May it please your Excellency,

We, their majesties' most dutiful and loyal subjects, convened, by their majesties' most gracious favour, in general assembly, in this province, do, in all most humble manner, heartily congratulate your excellency, that as, in our hearts, we do abhor and detest all the rebellious, arbitrary and illegal proceedings of the late usurpers of their majesties' authority, over this province, so we do, from the bottom of our hearts, with all integrity, acknowledge and declare, that there are none, that can or ought to have, right to rule and govern their majesties' subjects here, but by their majesties' authority, which is now placed in your excellency ; and therefore we do solemnly declare, that we will, with our lives and fortunes, support and maintain, the administration of your excellency's government, under their majesties, against all their majesties' enemies whatsoever : and this we humbly pray your excellency to accept, as the sincere acknowledgement of all their majesties' good subjects, within this their province ; praying for their majesties' long and happy reign over us, and that your excellency may long live and rule, as according to their majesties' most excellent constitution of governing their subjects by a general assembly.”

Before this house proceeded to pass any acts, they unanimously resolved, “ That all the laws consented to by the general assembly, under James,

duke of York, and the liberties and privileges therein contained, granted to the people, and declared to be their rights, not being observed, nor ratified and approved by his royal highness, nor the late king, are null and void, and of none effect; and also, the several ordinances made by the late governors and councils, being contrary to the constitution of England, and the practice of the government of their majesties' other plantations in America, are likewise null and void, and of no effect, nor force, within this province."

This vote was on the 24th of April, 1691, and preceded by an entry in these words: "Upon information brought into this house by several members of the house, declaring that the several laws made formerly by the general assembly, and his late royal highness James, duke of York, and also the several ordinances, or reputed laws, made by the preceding governors and councils, for the rule of their majesties' subjects within this province, are reported among the people to be still in force."—

The reader, who will find no law to repeal the acts passed before the revolution, may, perhaps, impute to ignorance what ought to be ascribed to art, unless he is informed that one of those acts gave a perpetual revenue to the crown, and that every subsequent assembly wished to conceal what a bill to repeal it would draw from under the veil, which this resolve had concealed, from the eye of a weak governor, or concerning which they made it his interest to be silent, by the new temporary act for establishing a revenue.

Among the principal laws enacted at this session,

we may mention that for establishing the revenue, which was drawn into precedent. The sums raised by it were made payable into the hands of the receiver-general, and issued by the governor's warrant. By this means the governor became, for a season, independent of the people, and hence we find frequent instances of the assemblies contending with him for the discharge of debts to private persons, contracted on the faith of the government.

Antecedent to the revolution, innumerable were the controversies relating to public townships and private rights; and hence, an act was now passed, for the confirmation of ancient patents and grants, intended to put an end to those debates. A law was also passed for the establishment of courts of justice, though a perpetual act had been made to that purpose in 1683, and the old court of assize entirely dissolved in 1684. As this enacted in 1691, was a temporary law, it may hereafter be disputed, as it has been already, whether the present establishment of our courts, for general jurisdiction, by an ordinance, can consist even with the preceding act, or the general rules of law. Upon the erection of the supreme court, a chief justice, and four assistant judges, with an attorney-general, were appointed. The chief justice, Joseph Dudley, had a salary of £130 per annum; Johnson, the second judge, £100, and both were payable out of the revenue; but William Smith, Stephen Van Courtlandt, and William Pinhorne, the other judges, and Newton, the attorney-general, had nothing allowed for their services.

It has, more than once, been a subject of animated

debate, whether the people in this colony, have a right to be represented in assembly, or whether it be a privilege enjoyed through the grace of the crown. A memorable act passed this session, virtually declared in favour of the former opinion, upon that and several other of the principal and distinguishing liberties of Englishmen. It must, nevertheless, be confessed, that king William was afterwards pleased to repeal that law, in the year 1697.\*

Colonel Sloughter proposed, immediately after the session, to set out to Albany, but as Leisler's party were enraged at his imprisonment, and the late sentence against him, his enemies were afraid new troubles would spring up in the absence of the governor; for this reason, both the assembly and council advised that the prisoners should be immediately executed. The sufferers under their government, stated their oppressions to the assembly, who unanimously resolved on the 17th April, 1691, that their services were tumultuous and illegal, and against the rights of the new king and queen; that they had illegally and arbitrarily thrown divers protestant subjects into doleful nauseous prisons; proscribed and forced others out of the colony; that the depredation upon Schenectady was imputable to their usurpations. That they had ruined merchants and others by seizures of their effects; levied money and rebelliously raised forces; and that their refusal to surrender the fort was rebellion. The council concurred with the resolves

\* It was entitled, "An act declaring what are the rights and privileges of their majesties' subjects inhabiting within their province of New-York."

on the next day. The assembly at first waved an answer to the governor's question, respecting the propriety of reprieving the convicts; he urged them again for an explicit answer three weeks after (11th May) whether they ought, or ought not to be executed; and within eight days after this the council consented to the execution and the assembly declared their approbation. Sloughter, who had no inclination to favour them in this request, chose rather to delay such a violent step, being fearful of cutting off two men, who had vigorously appeared for the king, and so signally contributed to the revolution. Nothing could be more disagreeable to their enemies, whose interest was deeply concerned in their destruction; and, therefore, when no other measures could prevail with the governor, tradition informs us, that a sumptuous feast was prepared, to which colonel Sloughter was invited. When his excellency's reason was drowned in his cups, the entreaties of the company prevailed with him to sign the death-warrant, and before he recovered his senses, the prisoners were executed. Leisler's son afterwards carried home a complaint to king William, against the governor. His petition was referred, according to the common course of plantation affairs, to the lords commissioners of trade, who, after hearing the whole matter, reported on the 11th of March, 1692, "That they were humbly of opinion, that Jacob Leisler and Jacob Milborne, deceased, were condemned, and had suffered according to law." Their lordships, however, interceded for their families, as fit objects of mercy, and



this induced queen Mary, who approved the report on the 17th of March, to declare, "That upon the humble application of the relations of the said Jacob Leisler and Jacob Milborne, deceased, her majesty will order the estates of Jacob Leisler and Jacob Milborne, to be restored to their families, as objects of her majesty's mercy." The bodies of these unhappy sufferers were afterwards taken up, and interred with great pomp, in the old Dutch church, in the city of New-York. Their estates were restored to their families, and Leisler's children, in the public estimation, are rather dignified, than disgraced, by the fall of their ancestor.

These distractions in the province, so entirely engrossed the public attention, that our Indian allies, who had been left solely to contend with the common enemy, grew extremely disaffected. The Mohawks, in particular, highly resented this conduct, and, at the instance of the Caghnugas, sent a messenger to Canada, to confer with count Frontenac about a peace. To prevent this, colonel Slougher had an interview at Albany, in June, with the other four Nations, who expressed their joy at seeing a governor again in that place. They told him, that their ancestors, as they had been informed, were greatly surprised at the arrival of the first ship in that country, and were curious to know what was in its huge belly. That they found Christians in it, and one Jacques, with whom they made a chain of friendship, which they had preserved to this day. All the Indians, except the Mohawks, assured the governor at this meeting, of their resolution to prosecute the war. The Mohawks confessed their

negociations with the French, that they had received a belt from Canada, and prayed the advice of the governor, and afterwards renewed their league with all our colonies.

Sloughter soon after returned to New-York, and ended a short, weak, and turbulent administration, for he died suddenly on the 23d of July, 1691. Some were not without suspicions that he came unfairly to his end, but the certificate of the physician and surgeons, who opened his body by an order of council, confuted these conjectures, and his remains were interred in Stuyvesant's vault, next to those of the old Dutch governor.

At the time of Sloughter's decease, the government devolved, according to the late act for declaring the rights of the people of this province, on the council, in which Joseph Dudley had a right to preside; but they committed the chief command to Richard Ingolsby, a captain of an independent company, who was sworn into the office of president on the 26th of July, 1698. Dudley, soon afterwards, returned to this province from Boston, but did not think proper to dispute Ingolby's authority, though the latter had no title nor the greatest abilities for government, and was besides obnoxious to the party who had joined Leisler, having been an agent in the measures which accomplished his ruin. To the late troubles, which were then recent, and the agreement subsisting between the council and assembly, we must ascribe it that the former tacitly acknowledged Ingolsby's right to the president's chair; for they concurred with him in passing

several laws, in autumn and the spring following, the validity of which have never yet been disputed.

This summer major Schuyler,\* with a party of Mohawks, passed through the Lake Champlain, and made a bold irruption upon the French settlements at the north end of it.† De Callieres, the governor of Montreal, to oppose him, collected a small army of eight hundred men, and encamped at La Prairie. Schuyler had several conflicts with the enemy, and slew about three hundred of them, which exceeded in number his whole party. The French, ashamed of their ill success, attribute it to the want of order, too many desiring to have the command; but the true cause was the ignorance of their officers in the Indian manner of fighting. They kept their men in a body, while ours posted themselves behind trees, hidden from the enemy. Major Schuyler's design, in this descent, was to animate the Indians, and preserve their enmity against the French. They, accordingly, continued their hostilities, and, by frequent incursions, kept the country in constant alarm.

In the midst of these distresses, the French governor preserved his sprightliness and vigour, animating every body about him. After he had served himself of the Utawawas, who came to trade at Montreal, he sent them home under the care of a captain and one hundred and ten men; and to

\* The French, from his great influence at Albany and activity among the Indians, concluded that he was governor of that city; and hence, their historians honour him with that title, though he was then only mayor of the corporation. "*Petre Schuyler (says Charlevoix) etoit un forte honnête homme.*"

† Dr. Colden relates it as a transaction of the year 1691, which is true; but he supposes it was before Sir William Phips's attack upon Quebec, and thus falls into an anachronism of one whole year, as I have already observed.

secure their attachment to the French interest, gave them two Indian prisoners, and, besides, sent very considerable presents to the Western Indians in their alliance. The captives were afterwards burnt. The Five Nations, in the meantime, grew more and more incensed, and continually harassed the French borders. Mr. Beaucour, a young gentleman, in the following winter, marched a body of about three hundred men, to attack them at the isthmus at Niagara. Incredible were the fatigues they underwent in this long march over the snow, bearing their provisions on their backs. Eighty men of the Five Nations opposed the French party, and bravely maintained their ground, till most of them were cut off. In return for which, the confederates, in small parties, obstructed the passage of the French through Lake Ontario and the river issuing out of it, and cut off their communication with the Western Indians. An Indian, called Black Kettle, commanded in these incursions of the Five Nations, and his successes, which continued the whole summer, so exasperated the count, that he ordered an Indian prisoner to be burnt alive. The bravery of this savage was as extraordinary, as the torments inflicted on him were cruel. He sung his military achievements without interruption, even while his bloody executioners practised all possible barbarities. They broiled his feet, thrust his fingers into red-hot pipes, cut his joints, and twisted the sinews with bars of iron. After this his scalp was ripped off, and hot sand poured on the wound.

In June, 1692, captain Ingolsby met the Five Nations at Albany, and encouraged them to persevere

in the war. The Indians declared their enmity to the French in the strongest terms, and as heartily professed their friendship to us. "Brother Corlear," said the sachem, "we are all the subjects of one great king and queen; we have one head, one heart, one interest, and are all engaged in the same war." The Indians at the same time did not forget, at this interview, to condemn the inactivity of the English, telling them that the destruction of Canada would not make one summer's work against their united strength, if vigorously exerted.

Colonel Benjamin Fletcher arrived, with a commission to be governor, on the 29th of August, 1692, which was published the next day, before the following members, in council:

FREDERICK PHILIPSE,	CHUDLEY BROOKE,
STEPHEN VAN COURTLANDT,	WILLIAM NICOLL,
NICHOLAS BAYARD,	THOMAS WILLET,
GABRIEL MIENVILLE,	THOMAS JOHNSTON.

William Pinhorne, one of that board, being a non-resident, was refused the oaths; and Joseph Dudley, for the same reason, removed both from his seat in council and his office of chief justice. Caleb Heathcote and John Young succeeded them in council; and William Smith was seated, in Dudley's place, on the bench.

Colonel Fletcher brought over with him a present to the colony of arms, ammunition, and warlike stores; in gratitude for which, he exhorted the council and assembly, who were sitting at his arrival, to send home an address of thanks to the king. It consists, principally, of a representation of the great

expense the province was continually at to defend the frontiers, and praying his majesty's direction, that the neighbouring colonies might be compelled to join their aid for the support of Albany. The following passage in it shows the sense of the legislature, upon a matter which has since been very much debated. "When these countries were possessed by the Dutch West-India Company, they always had pretences (and had the most part of it within their actual jurisdiction) to all that tract of land (with the islands adjacent) extending from the west side of Connecticut River to the lands lying on the west side of Delaware Bay, as a suitable portion of land for one colony or government; all which, including the lands on the west of Delaware Bay or River, were in the duke of York's grant, from his majesty king Charles the second, whose governors also possessed those lands on the west side of Delaware Bay or River. By several grants, as well from the crown as from the duke, the said province has been so diminished, that it is now decreased to a very few towns and villages; the number of men fit to bear arms, in the whole government, not amounting to 3,000, who are all reduced to great poverty."

Fletcher was by profession a soldier, a man of strong passions and inconsiderable talents, very active, and equally avaricious. Nothing could be more fortunate to him than his early acquaintance with major Schuyler at Albany, at the treaty for confirmation of the Indian alliance, the fall after his arrival. No man, then in this province, understood the state of our affairs with the Five Nations better than major Schuyler. He had so great an influence over

them, that whatever Quidder,\* as they called him, recommended or disapproved, had the force of a law. This power over them was supported, as it had been obtained, by repeated offices of kindness, and his singular bravery and activity in the defence of his country. These qualifications rendered him singularly serviceable and necessary, both to the province and the governor. For this reason, Fletcher took him into his confidence, and, on the 25th of October, raised him to the council board. Under the tutelage of major Schuyler, the governor became daily more and more acquainted with our Indian affairs; his constant application to which, procured and preserved him a reputation and influence in the colony. Without this knowledge, and which was all that he had to distinguish himself, his incessant solicitations for money, his passionate temper and bigoted principles, must necessarily have rendered him obnoxious to the people, and kindled a hot fire of contention in the province.

The old French governor, who found that all his measures for accomplishing a peace with the Five Nations proved abortive, was now meditating a blow on the Mohawks. He accordingly collected an army of six or seven hundred French and Indians, and supplied them with every thing necessary for a winter campaign. They set out from Montreal on the 15th of January, 1693; and after a march, attended with incredible hardships, they passed by Schenectady on the 6th of February, and, that night, captivated five men and some women and children, at the first castle of the Mohawks. The

\* Instead of Peter, which they could not pronounce.

second castle was taken with equal ease, the Indian inhabitants being in perfect security, and, for the most part, at Schenectady. At the third, the enemy found about forty Indians in a war dance, designing to go out upon some enterprise the next day. Upon their entering the castle a conflict ensued, in which the French lost about thirty men. Three hundred of our Indians were made captives in this descent; and, but for the intercession of the savages in the French interest, would all have been put to the sword.\*

The Indians were enraged, and with good reason, at the people of Schenectady, who gave them no assistance against the enemy, though they had notice of their marching by that village; but this was atoned for by the succours from Albany. Colonel Schuyler voluntarily headed a party of two hundred men, and went out against the enemy. On the 15th of February, he was joined by near three hundred Indians, ill armed, and many of them boys. A pretended deserter, who came to dissuade the Indians from the pursuit, informed him, the next day, that the French had built a fort, and waited to fight him: upon which he sent to Ingolsby, the commandant at Albany, as well for a reinforcement as for a supply of provisions; for the greatest part of his men came out with only a few biscuits in their pockets, and at the time they fell in with the enemy, on the 17th of the month, had been several days without any kind of food. Upon approaching the French army, sundry skirmishes ensued; the

\* Dr. Colden, and the Jesuit Charlevoix, are not perfectly agreed in the history of this irruption. I have followed, sometimes the former, and at other times the latter, according as the facts more immediately related to the conduct of their respective countrymen.



enemy endeavouring to prevent our Indians from felling trees for their protection. Captain Syms, with eighty regulars of the independent companies and a supply of provisions, arrived on the 19th, but the enemy had marched off the day before, in a great snow storm. Our party, however, pursued them, and would have attacked their rear, if the Mohawks had not been averse to it. When the French reached the north branch of Hudson's River, luckily a cake of ice served them to cross over it, the river being open both above and below. The frost was now extremely severe, and the Mohawks fearful of an engagement; upon which Schuyler, who had retaken about fifty Indian captives, desisted from the pursuit on the 20th of February, four of his men and as many Indians being killed, and twelve wounded. Our Indians, at this time, were so distressed for provisions, that they fed upon the dead bodies of the French; and the enemy, in their turn, were reduced, before they got home, to eat up their shoes. The French in this enterprise lost eighty men, and had above thirty wounded.

Fletcher's extraordinary dispatch up to Albany, upon the first news of this descent, gained him the esteem both of the public and our Indian allies.

The express reached New-York on the 12th of February, at ten o'clock in the night, and in less than two days the governor embarked with three hundred volunteers. The river (which was heretofore very uncommon at that season) was open.\*

\* The climate, of late years, is much altered, and this day (February 14, 1756,) three hundred recruits sailed from New-York for the army under the command of general Shirley, now quartered at Albany, and last year, a sloop went up the river a month earlier.

Fletcher landed at Albany, and arrived at Schenectady the 17th of the month, which is about one hundred and sixty miles from New-York; but he was still too late to be of any other use than to strengthen the ancient alliance. The Indians, in commendation of his activity on the occasion, gave him the name of Cayenguirag, or, The Great Swift Arrow.

Fletcher returned to New-York, and, in March, met the assembly, who were so well pleased with his late vigilance, that, besides giving him the thanks of the house, they raised £6000 for a year's pay of three hundred volunteers and their officers, for the defence of the frontiers.

As the greatest part of this province consisted of Dutch inhabitants, all our governors, as well in the duke's time as after the revolution, thought it good policy to encourage English preachers and school-masters in the colony. No man could be more bent upon such a project than Fletcher, a bigot to the episcopal form of church government. He, accordingly, recommended this matter to the assembly, on his first arrival, as well as at their present meeting. The house, from their attachment to the Dutch language, and the model of the church of Holland, secured by one of the articles of surrender, were entirely disinclined to the scheme, which occasioned a warm rebuke from the governor, in his speech at the close of the session, in these words: "Gentlemen, the first thing that I did recommend to you, at our last meeting, was to provide for a ministry, and nothing is done in it. There are none of you, but what are big with the

privileges of Englishmen and *Magna Charta*, which is your right; and the same law doth provide for the religion of the church of England, against sabbath-breaking and all other profanity; but as you have made it last, and postponed it this session, I hope you will begin with it the next meeting, and do somewhat toward it effectually."

The news of the arrival of the recruits and ammunition at Canada, the late loss of the Mohawks, and the unfulfilled promises of assistance made from time to time by the English, together with the incessant solicitations of Milet the Jesuit; all conspired to induce the Oneidas to sue for a peace with the French. To prevent so important an event, Fletcher met the five nations at Albany, in July 1693, with a considerable present of knives, hatchets, clothing, and ammunition, which had been sent over by the crown for that purpose. The Indians consented to a renewal of the ancient league, and expressed their gratitude for the king's donation with singular force. "Brother Cayenguirago, we roll and wallow in joy, by reason of the great favor the great king and queen have done us, in sending us arms and ammunition at a time when we are in the greatest need of them; and because there is such unity among the brethren." Colonel Fletcher pressed their delivering up to him Milet the old priest, which they promised, but never performed. On the contrary, he had influence enough to persuade all but the Mohawks to treat about the peace at Onondaga, though the governor exerted himself to prevent it.

Soon after this interview, Fletcher returned to New-York ; and, in September, met a new assembly, of which James Graham was chosen Speaker. The governor laboured at this session to procure the establishment of a ministry throughout the colony, a revenue to his majesty for life, the repairing the fort in New-York, and the erection of a chapel. That part of his speech relating to the ministry was in these words : " I recommended to the former assembly the settling of an able ministry, that the worship of God may be observed among us, for I find that great and first duty very much neglected. Let us not forget that there is a God that made us, who will protect us if we serve him. This has been always the first thing I have recommended, yet the last in your consideration. I hope you are all satisfied of the great necessity and duty that lies upon you to do this, as you expect his blessing upon your labours." The zeal with which this affair was recommended induced the house, on the 12th of September, to appoint a committee of eight members, to agree upon a scheme for settling a ministry in each respective precinct throughout the province. This committee made a report the next day, but it was recommitted till the afternoon, and then deferred to the next morning. Several debates arising about the report in the house, it was again " recommitted for further consideration." On the 15th of September it was approved, the establishment being then limited to several parishes in four counties, and a bill ordered to be brought in accordingly ; which the speaker (who on the 18th of September was

appointed to draw all their bills) produced on the 19th It was read twice on the same day, and then referred to a committee of the whole house. The third reading was on the 21st of September, when the bill passed and was sent up to the governor and council, who immediately returned it with an amendment to vest his excellency with an episcopal power of inducting every incumbent, adding to that part of the bill near the end, which gave the right of presentation to the people, these words "and presented to the governor to be approved and collated." The house declined their consent to the addition, and immediately returned the bill, praying "that it may pass without the amendment, having in the drawing of the bill had a due regard to that pious intent of settling a ministry for the benefit of the people." Fletcher was so exasperated with their refusal, that he no sooner received the answer of the house than he convened them before him, and in an angry speech broke up the session. I shall lay that part of it relating to this bill before the reader, because it is characteristic of the man.

"Gentlemen,

"There is also a bill for settling a ministry in this city, and some other counties of the government. In that very thing you have shown a great deal of stiffness. You take upon you, as if you were dictators. I sent down to you an amendment of three or four words in that bill, which though very immaterial, yet was positively denied. I must tell you it seems very unmannerly. There never was an amendment yet desired by the council board, but

what was rejected. It is the sign of a stubborn ill temper; and this you have also refused.

"But, gentlemen, I must take leave to tell you, if you seem to understand by these words, that none can serve without your collation or establishment, you are far mistaken; for I have the power of collating or suspending any minister in my government by their majesties' letters patent; and whilst I stay in the government, I will take care that neither heresy, sedition, schism, or rebellion, be preached amongst you, nor vice and profanity encouraged. It is my endeavour to lead a virtuous and pious life amongst you, and to give a good example: I wish you all to do the same. You ought to consider that you have but a third share in the legislative power of the government; and ought not to take all upon you, nor be so peremptory. You ought to let the council have a share. They are in the nature of the house of lords, or upper house; but you seem to take the whole power in your hands, and set up for every thing. You have sat a long time to little purpose, and have been a great charge to the country. Ten shillings a day is a large allowance, and you punctually exact it. You have been always forward enough to pull down the fees of other ministers in the government; why did you not think it expedient to correct your own to a more moderate allowance?"

"Gentlemen, I shall say no more at present, but that you do withdraw to your private affairs in the country. I do prorogue you to the tenth of January next, and you are hereby prorogued to the tenth day of January next ensuing."

The violence of this man's temper is very evident in all his speeches and messages to the assembly; and it can only be attributed to the ignorance of the times, that the members of that house, instead of asserting their equality, peaceably put up with his rudeness. Certainly they deserved better usage at his hands. For the revenue established the last year, was at this session continued five years longer than was originally intended. This was rendering the governor for a time independent of the people. For at that day the assembly had no treasure, but the amount of all taxes went of course into the hands of the receiver-general, who was appointed by the crown. Out of this fund moneys were only issuable by the governor's warrant; so that every officer in the government, from Mr. Blaithwait, who drew annually five per cent. out of the revenue as auditor-general, down to the meanest servant of the public, became dependent solely of the governor. And hence we find the house, at the close of every session, humbly addressing his excellency for the trifling wages of their own clerk. Fletcher was notwithstanding so much displeased with them, that soon after the prorogation, he dissolved the assembly.

The members of the new assembly met according to the writ of summons, in March 1694, and chose colonel Pierson for their speaker, Mr. Graham being left out at the election for the city. The shortness of this session, which continued only to the latter end of the month, was owing to the disagreeable business the house began upon, of examining the

state of the public accounts, and in particular the muster rolls of the volunteers in the pay of the province. They however resumed it again in September, and formally entered their dissatisfaction with the receiver-general's accounts. The governor, at the same time, blew up the coals of contention by a demand of additional pay for the King's soldiers then just arrived, and new supplies for detachments in defence of the frontiers. He at last prorogued them, after obtaining an act for supporting one hundred men upon the borders. The same disputes revived again in the spring, 1695; and proceeded to such lengths that the assembly asked the governor's leave to print their minutes, that they might appeal to the public. It was at this session, on the 12th of April, 1695, that upon a petition of five church wardens and vestrymen of the city of New-York the house declared it to be their opinion "That the vestrymen and church wardens have power to call a dissenting protestant minister, and that he is to be paid and maintained as the act directs." The intent of this petition was to refute an opinion which prevailed, that the late ministry act was made for the sole benefit of Episcopal clergymen.

The quiet undisturbed state of the frontiers, while the French were endeavouring to make a peace with the Five Nations, and the complaints of many of the volunteers, who had not received their pay, very much conduced to the backwardness of the assembly, in answering Fletcher's perpetual demands of money. But when the Indians refused to



comply with the terms of peace demanded by the French governor, which were to suffer him to rebuild the fort at Cadaracqui, and to include the Indian allies, the war broke out afresh, and the assembly were obliged to augment both their detachments and supplies. The count Frontenac now levelled his wrath principally against the Mohawks, who were more attached than any other of the Five Nations to our interest : but as his intentions had taken air, he prudently changed his measures, and sent a party of three hundred men to the isthmus at Niagara, to surprise those of the Five Nations that might be hunting there. Among a few that were met with, some were killed and others taken prisoners, and afterwards burnt at Montreal. Our Indians imitated the count's example, and burnt ten Dewagunga captives.

Colonel Fletcher and his assembly having come to an open rupture in the spring, he called another in June, of which James Graham was chosen speaker. The count Frontenac was then repairing the old fort at Cadaracqui, and the intelligence of this, and the King's assignment of the quotas of the several colonies, for an united force\* against the

\* As such an union appeared to be necessary so long ago, it is very surprising that no effectual scheme for that purpose has hitherto been carried into full execution. A plan was concerted, in the great congress consisting of commissioners from several colonies, met at Albany, in 1754; but what approbation it received at home, has not hitherto been made public. The danger to Great Britain, apprehended from our united force, is founded in a total ignorance of the true state and character of the colonies. None of his majesty's subjects are more loyal, or more strongly attached to Protestant principles; and the remarkable attestation, in the elegant address of the lords, of the 13th of November, 1755, in our favour, "That we are a great body of brave and faithful subjects," is as justly due to us as it was nobly said by them.

French, were the principal matters which the governor laid before the assembly. The list of the quotas was this :

Pennsylvania .....	£ 80
Massachusetts Bay .....	350
Maryland .....	160
Virginia .....	240
Rhode Island and Providence Plantation .....	48
Connecticut .....	120
New-York .....	200

As a number of the forces were now arrived, the assembly were in hopes the province would be relieved from raising any more men for the defence of the frontiers ; and, to obtain this favour of the governor ordered £1000 to be levied, one half to be presented to him, and the rest he had leave to distribute among the English officers and soldiers. A bill for this purpose was drawn, but though his excellency thanked them for their favourable intention, he thought it not for his honour to consent to it. After passing several laws the session broke up in perfect harmony, the governor in his great grace recommending it to the house to appoint a committee to examine the public accounts against the next session.

In September, Fletcher went up to Albany with very considerable presents to the Indians ; whom he blamed for suffering the French to rebuild the fort at Cadaracqui, or Frontenac, which commands the entrance from Canada into the great lake Ontario.

While these works were carrying on, the Dionondadies, who were then poorly supplied by the French, made overtures of a peace with the Five Nations,

which the latter readily embraced, because it was owing to their fears of these Indians, who lived near the lake Missilimakinac, that they never dared to march with their whole strength against Canada. The French commandant was fully sensible of the importance of preventing this alliance. The civilities of the Dionondadies to the prisoners by whom the treaty, to prevent a discovery, was negotiated, gave the officer the first suspicion of it. One of these wretches had the unhappiness to fall into the hands of the French, who put him to the most exquisite torments, that all future intercourse with the Dionondadies might be cut off. Dr. Colden, in just resentment for this inhuman barbarity, has published the whole process from La Potherie's history of North America, and it is this :

"The prisoner being first made fast to a stake, so as to have room to move round it, a Frenchman began the horrid tragedy by broiling the flesh of the prisoner's legs from his toes to his knees, with the red-hot barrel of a gun. His example was followed by an Utawawa, who being desirous to outdo the French in their refined cruelty, split a furrow from the prisoner's shoulder to his garter, and filling it with gun-powder, set fire to it. This gave him exquisite pain, and raised excessive laughter in his tormentors. When they found his throat so much parched, that he was no longer able to gratify their ears with his howling, they gave him water to enable him to continue their pleasure longer. But at last his strength failing, an Utawawa flayed off his scalp, and threw burning hot coals on his scull. They then untied him, and bid him run for his life.

He began to run, tumbling like a drunken man. They shut up the way to the east, and made him run westward, the country, as they think, of departed miserable souls. He had still force left to throw stones, till they put an end to his misery by knocking him on the head. After this every one cut a slice from his body, to conclude the tragedy with a feast."

From the time Colonel Fletcher received his instruction respecting the quotas of these colonies for the defence of the frontiers, he repeatedly, but in vain, urged their compliance with the king's direction; he then carried his complaints against them home to his majesty, but all his applications were defeated by the agents of those colonies who resided in England. As soon, therefore, as he had laid this matter before the assembly, in autumn, 1695, the house appointed William Nicol to go home in the quality of an agent for this province, for which they allowed him £1000. But his solicitations proved unsuccessful, and the instruction relating to these quotas, which is still continued, remains unnoticed to this day. Fletcher maintained a good correspondence with the assembly through the rest of his administration; and nothing appears upon their journals worth the reader's attention.

The French never had a governor in Canada so vigilant and active as the count de Frontenac. He had no sooner repaired the old fort called by his name, than he formed a design of invading the country of the Five Nations with a great army. For this purpose, in 1696, he convened at Montreal, all the regulars as well as Militia under his command; the Owenagungas, Quatoghies of Loretto, Adirondacks,

Sokakies, Nipiciriniens, the proselyted praying Indians of the Five Nations, and a few Utawawas. Instead of wagons and horses, which are useless in such a country as he had to march through, the army was conveyed through rivers and lakes in light barks, which were portable whenever the rapidity of the stream and the crossing an isthmus rendered it necessary. The count left La Chine, at the south end of the island of Montreal, on the 7th of July. Two battalions of regulars, under the command of Le Chevalier de Callieres, headed by a number of Indians, led the van, with two small pieces of cannon, the mortars, grenadoes, and ammunition. After them followed the provisions: then the main body, with the count's household, a considerable number of volunteers, and the engineer; and four battalions of the militia commanded by Monsieur De Ramezai, governor of Trois Rivières. Two battalions of regulars and a few Indians, under the Chevalier de Vaudrueil, brought up the rear.

Before the army went a parcel of scouts, to descry the tracks and ambuscades of the enemy. After twelve days march, they arrived at Cadaracqui, about one hundred and eighty miles from Montreal, and then crossed the lake to Oswego. Fifty men marched on each side of the Onondaga river, which is narrow and rapid. When they entered the little lake\*, the army divided into two parts, coasting along the edges, that the enemy might be uncertain as to the place of their landing; and where they did land

\* The Onondaga or Oneida Lake, noted for a good salt pit at the south-east end; which, as it may be very advantageous to the garrison at Oswego, it is hoped the government will never grant to any private company.

they erected a fort. The Onondagas had sent away their wives and children, and were determined to defend their castle, till they were informed by a deserter of the superior strength of the French, and the nature of bombs, which were intended to be used against them ; and then, after setting fire to their village, they retired into the woods. As soon as the count heard of this, he marched to their huts in order of battle ; being himself carried in an elbow chair behind the artillery. With this mighty apparatus he entered it, and the destruction of a little Indian corn was the great acquisition. A brave sachem, then about a hundred years old, was the only person who tarried in the castle to salute the old general. The French Indians put him to torment, which he endured with astonishing presence of mind. To one who stabbed him with a knife, "you had better," says he, "make me die by fire, that these French dogs may learn how to suffer like men : you Indians, their allies, you dogs of dogs, think of me when you are in the like condition."\* This sachem was the only man of all the Onondagas that was killed ; and had not thirty-five Oneidas, who waited to receive Vaudrueil at their castles, been afterwards basely carried into captivity, the count would have returned without the least mark of triumph. As soon as he began his retreat the Onondagas followed, and annoyed his army by cutting off several batteaux.

This expensive enterprise, and the continual incursions of the Five Nations on the country near Montreal, again spread a famine through all Canada.

\* " Never perhaps (says Charlevoix) was a man treated with more cruelty, nor did any ever bear it with superior magnanimity and resolution."

The count, however, kept up his spirits to the last, and sent out scalping parties, who infested Albany as our Indians did Montreal, till the treaty of peace signed at Ryswick, in 1697

Richard, Earl of Bellomont, was appointed to succeed colonel Fletcher, in the year 1695, but did not receive his commission till the 18th of June, 1697; and as he delayed his voyage till after the peace of Ryswick, which was signed the 10th of September following, he was blown off our coast to Barbadoes, and did not arrive here before the 2d of April, 1698.

During the late war the seas were extremely infested with English pirates, some of whom sailed out of New-York, and it was strongly suspected that they had received too much countenance here, even from the government, during Fletcher's administration. His lordship's promotion to the chief command of the Massachusetts Bay and New Hampshire, as well as this province, was owing partly to his rank, but principally to the affair of the pirates; and the multiplicity of business to which the charge of three colonies would necessarily expose him, induced the earl to bring over with him John Nanfan, his kinsman, in the quality of our lieutenant governor.\* When lord Bellomont was appointed to the government of these provinces, the king did him the honour to say "that he thought him a man of resolution and integrity, and with these qualities more likely than any other he could think of to put a stop to the growth of piracy."

\* His commission was dated the 1st of July, 1697.

Before the earl set out for America, he became acquainted with Robert Livingston, esq.\* who was then in England, soliciting his own affairs before the council and the treasury. The earl took occasion, in one of his conferences with Mr. Livingston, to mention the scandal the province was under on account of the pirates. The latter, who confessed it was not without reason, brought the earl acquainted with one Kid, whom he recommended as a man of integrity and courage, that knew the pirates and their rendezvous, and would undertake to apprehend them, if the king would employ him in a good sailing frigate of thirty guns and one hundred and fifty men. The earl laid the proposal before the king, who consulted the admiralty upon that subject; but this project dropped, through the uncertainty of the adventure, and the French war, which gave full employment to all the ships in the navy. Mr. Livingston then proposed a private adventure against the pirates, offering to be concerned with Kid a fifth part in the ship and charges, and to be bound for Kid's faithful execution of the commission. The king then approved of the design, and reserved a tenth share to show that he was concerned in the enterprise. Lord chancellor Somers, the duke of Shrewsbury, the earls of Romney and Oxford, Sir

\* This gentleman was a son of Mr. John Livingston, one of the commissioners from Scotland to King Charles II. while he was an exile at Breda. He was a clergyman distinguished by his zeal and industry; and for his opposition to episcopacy, became so obnoxious after the Restoration to the English court, that he left Scotland, and took the pastoral charge of an English presbyterian church in Rotterdam. His descendants are very numerous in this province, and the family in the first rank for their wealth, morals, and education. The original Diary, in the hand-writing of their common ancestor, is still amongst them, and contains a history of his life.



Edmund Harrison and others, joined in the scheme, agreeing to the expense of £6000. But the management of the whole affair was left to lord Bellomont, who gave orders to Kid to pursue his commission, which was in common form. Kid sailed from Plymouth for New-York, in April, 1696; and afterwards turned pirate, burnt his ship, and came to Boston, where the earl apprehended him. His lordship wrote to the secretary of state, desiring that Kid might be sent for. The Rochester man-of-war was dispatched upon this service, but being driven back, a general suspicion prevailed in England, that all was collusion between the ministry and the adventurers, who, it was thought, were unwilling Kid should be brought home, lest he might discover that the chancellor, the duke, and others, were confederates in the piracy. The matter even proceeded to such lengths, that a motion was made in the house of commons, that all who were concerned in the adventure might be turned out of their employments, but it was rejected by a great majority.

The tory party who excited these clamours, though they lost their motion in the house, afterwards impeached several whig lords; and, among other articles, charged them with being concerned in Kid's piracy. But these prosecutions served only to brighten the innocence of those against whom they were brought; for the impeached lords were honourably acquitted by their peers.

Lord Bellomont's commission was published in council on the day of his arrival; colonel Fletcher, who still remained governor under the proprietors

of Pennsylvania, and lieutenant governor Nanfan being present. The members of the council were,

FREDERICK PHILIPSE,	WILLIAM NICOLL,
STEPHEN VAN CORTLANDT,	THOMAS WILLET,
NICHOLAS BAYARD,	WILLIAM PINHORNE,
GABRIEL MIENVIELLE,	JOHN LAWRENCE.
WILLIAM SMITH,	

After the earl had dispatched captain John Schuyler and Dellijs, the Dutch minister of Albany, to Canada with the account of the peace, and to solicit a mutual exchange of prisoners, he laid before the council the letters from secretary Vernon and the East India Company, relating to the pirates; informing that board that he had an affidavit, that Fletcher had permitted them to land their spoils in this province, and that Mr. Nicoll bargained for their protections, and received for his services eight hundred Spanish dollars. Nicoll confessed the receipt of the money for protections, but said that it was in virtue of a late act of assembly, allowing privateers on their giving security; but he denied the receipt of any money from known pirates. One Weaver was admitted at this time into the council chamber, and acted in the quality of king's council; and in answer to Mr. Nicoll, denied that there was any such act of assembly as he mentioned. After considering the whole matter, the council advised his excellency to send Fletcher home, but to try Nicoll here, because his estate would not bear the expense of a trial in England. Their advice was never carried into execution, which was probably owing to a want of evidence against the parties

accused. It is nevertheless certain, that the pirates were frequently in the sound, and supplied with provisions by the inhabitants of Long-Island, who for many years afterwards were so infatuated with a notion that the pirates buried great quantities of money along the coast, that there is scarce a point of land, or an island, without the marks of their *auri sacra fames*. Some credulous people have ruined themselves by these researches, and propagated a thousand idle fables, current to this day among our country farmers.

As Fletcher, through the whole of his administration, had been entirely influenced by the enemies of Leisler, nothing could be more agreeable to the numerous adherents of that unhappy man, than the earl's disaffection to the late governor. It was for this reason they immediately devoted themselves to his lordship as the head of their party.

The majority of the members of the council were Fletcher's friends, and there needed nothing more to render them obnoxious to his lordship. Leisler's advocates at the same time mortally hated them; not only because they had imbrued their hands in the blood of the principal men of their party, but also because they had engrossed the sole confidence of the late governor, and brought down his resentment upon them. Hence, at the commencement of the earl's administration, the members of the council had every thing to fear; while the party they had depressed began once again to erect its head under the smiles of a governor who was fond of their aid, as they were solicitous to conciliate his favour. Had

the earl countenanced the enemies as well as the friends of Leisler, which he might have done, his administration would doubtless have been easier to himself and advantageous to the province; but his inflexible aversion to Fletcher prevented his acting with that moderation which was necessary to enable him to govern both parties. The fire of his temper appeared very early, on his suspending Mr. Nicoll from the board of council, and obliging him to enter into a recognizance in £2000, to answer for his conduct relating to the protections. But his speech to the new assembly convened on the 18th of May, gave the fullest evidence of his abhorrence of the late administration. Philip French was chosen speaker, and waited upon his excellency with the house, when his lordship spoke to them in the following manner:

“I cannot but observe to you what a legacy my predecessor has left me, and what difficulties to struggle with; a divided people, an empty purse, a few miserable naked half-starved soldiers, not half the number the king allowed pay for: the fortifications and even the governor's house very much out of repair, and in a word the whole government out of frame. It hath been represented to the government in England; that this province has been a noted receptacle of pirates, and the trade of it under no restriction, but the acts of trade violated by the neglect and connivance of those whose duty it was to have prevented it.”

After this introduction he puts them in mind that the revenue was near expiring. “It would be hard,

says he, if I that come among you with an honest mind and a resolution to be just to your interest, should meet with greater difficulties in the discharge of his majesty's service than those that have gone before me. I will take care there shall be no misapplication of the public money. I will pocket none of it myself, nor shall there be any embezzlement by others; but exact accounts shall be given you when and as often as you shall require."

It was customary with Fletcher to be present in the field to influence elections; and as the assembly consisted at this time of but nineteen members, they were too easily influenced to serve the private ends of a faction. For that reason, his lordship was warm in a scheme of increasing their number at present to thirty, and so in proportion as the colony became more populous; and hence we find the following clause in his speech: "You cannot but know what abuses have been formerly in elections of members to serve in the general assembly, which tends to the subversion of your liberties. I do therefore recommend the making of a law to provide against it."

The house, though unanimous in a hearty address of thanks to the governor for his speech, could scarce agree upon any thing else. It was not till the beginning of June that they had finished the controversies relating to the late turbulent elections; and even then six members seceded from the house, which obliged his excellency to dissolve the assembly on the 14th of June, 1698. About the same time the governor dismissed two of the council; Pinhorne, for disrespectful words of the king, and Brook, the receiver-general, who was also turned out of that

office as well as removed from his place on the bench.

In July, the deputies from the French concerning the exchanging of prisoners, obliged his excellency to go up to Albany. When the earl sent the account of the conclusion of the peace to the governor of Canada, all the French prisoners in our custody were restored, and as to those among the Indians, he promised to order them to be safely escorted to Montreal. His lordship then added, "I doubt not, sir, that you on your part will also issue an order to relieve the subjects of the king captivated during the war, whether christians or Indians."

The count fearful of being drawn into an implicit acknowledgment that the Five Nations were subject to the English crown, demanded the French prisoners among the Indians to be brought to Montreal; threatening at the same time to continue the war against the confederates if they did not comply with his request. After the earl's interview with them he wrote a second letter\* to the count, informing him that they had importunately begged to continue under the protection of the English crown, professing an inviolable subjection and fidelity to his majesty; and that the Five Nations were always considered as subjects; which, says his lordship, "can be manifested to all the world by authentic and solid proofs." His lordship added that he would not suffer them to be insulted, and threatened to execute the laws of England upon the missionaries, if they continued

\* Charlevoix has published both these letters at large, together with count Frontenac's answer. I have had no opportunity of inquiring into the Jesuit's integrity in these transcripts, being unable to find his lordship's letters in the secretary's office.

any longer in the Five Cantons. A resolute spirit runs through the whole letter, which concludes in these words: "if it is necessary I will arm every man in the provinces under my government, to oppose you, and redress the injury that you may perpetrate against our Indians." The count in his answer proposed to refer the dispute to the commissaries, to be appointed according to the treaty of Ryswick;\* but the earl continued the claim, insisting that the French prisoners should be delivered up at Albany.

The French count dying while this matter was controverted, Monsieur De Callieres his successor, sent ambassadors the next year to Onondaga, there to regulate the exchange of prisoners, which was accomplished without the earl's consent; and thus the important point in dispute remained unsettled. The Jesuit Bruyas who was upon this embassy, offered to live at Onondaga, but the Indians refused his belt, saying that Corlear or the governor of New-York, had already offered them ministers for their instruction.

Great alterations were made in council at his excellency's return from Albany. Bayard, Meinvielle, Willet, Townly, and Lawrence, were all suspended on the 28th of September; and colonel Abraham Depeyster, Robert Livingston, and Samuel Staats, called to that board. The next day Frederick Philipse resigned his seat, and Robert Walters was sworn in his stead.

\* The count misunderstood the treaty. No provision was made by it for commissaries to settle the limits between the English and French possessions, but only to examine and determine the controverted rights and pretensions to Hudson's Bay.

The earl assigned as reasons for Mr. Bayard's suspension,

1. That he advised governor Fletcher to issue a proclamation for the currency of dog dollars, contrary to his oath and the king's instructions.

2. That he connived at an illegal commerce with foreign ships at New-York.

3. That he connived at Fletcher's granting commissions to pirates manned here for the Red Sea; procured protections from the governor, and received a reward; advised to a piratical ship's being admitted into port with her spoils, and connived at Fletcher's receipt of presents from pirates.

4. That he advised to Fletcher's frequent misapplications and embezzlements of the king's revenue, and other moneys appropriated by the assembly for special and public uses.

5. That he advised to extravagant grants, and took one to himself of land belonging to the Mohawks, as large as one of the middle counties in England, without referring a reasonable quit rent.

6. That he advised the governor's going into the field at elections, where he named members for the assembly with threatening and abusive language.

7. That he connived at the governor's neglect of the frontiers.

8. That he advised the printing a scandalous and malicious pamphlet, entitled a letter from a gentleman of the city of New-York to another, concerning the troubles which happened in this province in the time of the late happy revolution, to stir up sedition and inflame the colony, in compliance with Fletcher's wicked designs, to gratify his own implacable malice



against those who were most active in the revolution.

9. That a few days after his (lord Bellamont's) arrival, he confederated with several persons disaffected to his majesty's government, in an address to governor Fletcher, applauding his justice in countenancing illicit trade, and at the same time upbraided the earl as discouraging commerce by issuing his warrant for seizing the ship *Fortune* and goods unlawfully imported in that bottom.

10. That contrary to his duty and oath he conspired against the king's government, by raising scandalous reports to misrepresent his lordship's government, and assisted in forging several false and groundless articles against his lordship, and without his knowledge.

Mr. Bayard gave a written answer from New-Jersey on the 17th of October, 1698, thirteen days after he had a copy of the charges against him ; and intended, as it appears from his letter to his lordship, to sail for England. This defence follows the order of the impeachments. The proclamation he alleges was issued with the advice of the attorney-general as well as the rest of the council board, and fixed a dog dollar at five shillings and sixpence, though current in other colonies at six shillings. That this money had and retained a currency before and after the proclamation, and if the treasury had lost by the receipt of them, he offered to exchange them out of his own purse.

The second article he absolutely denies, and to account for the third, he says that several years previous he had by letter to governor Fletcher, then at

Philadelphia, requested his favor in behalf of one Thomas Lewis, who had been abroad in a privateer, some of the crew of which had killed the master; and of one Barent Rynderson a comrade of Lewis. That the letter was written at the request of their neighbours Leenders Lewis and Samuel Staats; the former a brother to Thomas Lewis, and the other brother-in-law to Barent Rynderson, and one of his lordship's new counsellors, and very solicitous to procure governor Fletcher's licence for the return of their relations, and their settlement in New-York. That the governor granted the favour desired, and inclosed the licences to him, which he delivered to Leenders Lewis and Samuel Staats, who, unrequested, offered him a bag of one hundred pieces of Eight for the governor, and eighteen or twenty ducats for himself, both of which he refused to accept until he was importuned to gratify their desire of testifying their acknowledgment of the great favour they had received; and for the confirmation of this narration he urges an examination of the four persons above named, all of them in town. He adds that the licences were upon condition of continuing in the province and being of the good behaviour, and at that day were commonly called protections.

4th. He denies this charge, declaring that he advised the borrowing money of the receiver-general about six years before, to repel the French who had advanced near to Schenectady, out of any funds in his hands, and had himself made loans to the public during the war, and bound himself to indemnify Mr. Livingston and other lenders, not disposed to rely on the justice of the country, for their disbursements.

5th. He owns his grant for Schoharie; thinks it no crime to accept the patent; asserts that others who had governor Duncan's leave to purchase it, refused the price demanded, and that then he petitioned for it and drove the bargain with the Indians who never complained, "except the meanest," of the sale. He applauds the patents to colonel Schuyler and Don Deltius. The clamours against them he imputes to the envy of the Indian traders at Albany. Thinks our approaches to the Indians conducive to the spreading of christianity. Assigns the desertion of the Caghnuagas to the thirst of the Mohawks after instruction and the aid given to them by the French for obtaining it. conceives the settlement of the interior lands consistent with policy, as well as piety, in better watching the intrigues of the French.

6th. He admits the allegation that the governor had attended elections; but he denies that it was with his advice, and he exculpates him from the charge of menacing the people, to whom he heard him recommend a peaceable ticket, which was slighted and the governor gone before the election.

7th. Acquitting the governor of any neglect of the frontiers, he refutes the accusation of his own connivance at this default, and observes that the advice of council on these subjects were *nem. con.* and would expose persons still retained at that board to as much censure as himself, who are nevertheless not blamed.

8th. He avers that the pamphlet excepted to contains nothing but the truth with respect to the revolution; he informs his lordship that lieutenant governor Nicholson and the council changed the

government by a convention of all the civil and military officers, for the purpose of executing measures by them concerted till orders arrived from England. That this was communicated by express to the secretary of state and the lords of the plantation office, long before others applauded by his lordship thrust themselves into power for private ends, imposing reports upon the public of jacobites and papists, of whom there were not ten in the colony. He avows his own zeal for the revolution, but that he thought the operations here ought to have been conducted according to intimations from home, and according to the examples of Virginia, Barbadoes and Jamaica, without altering the colony constitution until orders were received for that purpose from England.

He recapitulates his sufferings under the ruling party, driven into exile and imprisoned after fourteen months, bail refused, fettered with irons, robbed, and that he still remains unredressed.

And to the 9th and 10th articles he opposed a flat and peremptory denial of their truth.

The new assembly, of which James Orahm was chosen speaker, met in the spring. His excellency spoke to them on the 21st of March, 1699.

As the late assembly was principally composed of anti-Leislerians, so this consisted almost entirely of the opposite party. The elections were attended with great outrage and tumult, and many applications made relating to the returns; but as Abraham Gouverneur, who had been secretary to Leisler, got returned for Orange county, and was very active in the house,\* all the petitions were rejected without ceremony.

\* Mr. Gouverneur married Milborne's widow.

Among the principal acts passed at this session, there was one for indemnifying those who were excepted out of the general pardon in 1691; another against pirates; one for the settlement of Milborne's estate; and another to raise fifteen hundred pounds as a present to his lordship, and five hundred pounds for the lieutenant governor, his kinsman. Besides which the revenue was continued for six years longer. A necessary law was also made for the regulation of elections, containing the substance of the English statutes of 8 Hen. VI. Chap. VII. and the 7 and 8 Will. III.

This assembly took also into consideration sundry extravagant grants of land which colonel Fletcher had made to several of his favourites. Among these, two grants to Dellius, the Dutch minister, and one to Nicholas Bayard, were the most considerable. Dellius was one of the commissioners for Indian affairs, and had fraudulently obtained the Indian deeds, according to which the patents had been granted. One of the grants included all the lands within twelve miles on the east side of Hudson's river, and extended twenty miles in length from the north bounds of Saratoga. The second patent, which was granted to him in company with Pinhorne, Bancker, and others, contained all the lands within two miles on each side of the Mohawks' river, and along its banks to the extent of fifty miles. Bayard's grant was also for land in that country, and very extravagant. Lord Bellomont, who justly thought these great patents, with the trifling annual reservation of a few skins, would impede the settlement of the country, as well as alienate the affections of our Indian

allies, wisely procured recommendatory instructions from the lords justice for vacating those patents, which was now regularly accomplished by a law, and Delliuss was suspended from his ministerial functions.

The earl having carried all his points at New-York, set out for Boston in June, whence, after he had settled his salary, and apprehended the pirate Kid, he returned here again in the fall.

The revenue being settled for six years, his lordship had no occasion to meet the assembly till the summer of the year 1700; and then indeed little else was done than to pass a few laws. One for hanging every popish priest that came voluntarily into the province, which was occasioned by the great number of French Jesuits, who were continually practising upon our Indians. By another provision was made for erecting a fort in the country of the Onondagas, but as this was repealed a few months after the king's providing for that purpose, so the former continues, as it for ever ought, in full force to this day.

The earl was a man of art and polite manners, and being a mortal enemy to the French, as well as a lover of liberty, he would doubtless have been of considerable service to the colony; but he died here on the 5th of March, 1701, when he was but just become acquainted with the colony.

The earl of Bellomont's death was the source of new troubles, for Nanfan, the lieutenant governor, being then absent in Barbadoes, high disputes arose among the counsellors, concerning the exercise of the powers of government. Abraham De Peyster,

Samuel Staats, Robert Walters, and Thomas Weaver, who sided with the party that adhered to Deisler, insisted that the government was devolved upon the council, who had a right to act by a majority of voices; but colonel Smith contended that all the powers of the late governor were devolved upon him as president, he being the eldest member of that board. Colonel Schuyler and Robert Livingston, who did not arrive in town till the 21st of March, joined Mr. Smith, and refused to appear at the council board till near the middle of April. The assembly, which was convened on the 2d of that month, were in equal perplexity, for they adjourned from day to day, waiting the issue of this rupture. Both parties continuing inflexible, those members who opposed colonel Smith sent down to the house a representation of the controversy, assigning a number of reasons for the sitting of the assembly, which the house took into their consideration, and on the 16th of April resolved, that the execution of the earl's commission and instructions, in the absence of the lieutenant governor, was the right of the council by majority of voices, and not of any single member of that board; and this was afterwards the opinion of the lords of trade. The disputes, nevertheless, continuing in the council strenuously supported by Mr. Livingston, the house, on the 19th of April, thought proper to adjourn themselves to the first Tuesday in June.

In this interval, on the 19th of May, John Nanfan, the lieutenant governor, arrived, and settled the controversy by taking upon himself the supreme command.

Upon Mr. Nanfan's arrival, we had the agreeable news that the king had given two thousand pounds sterling for the defence of Albany and Schenectady, as well as five hundred pounds more for erecting a fort in the country of the Onondagas. And not long after an ordinance was issued, agreeable to the special direction of the lords of trade, for erecting a court of chancery, to sit the first Thursday in every month. By this ordinance the powers of the chancellor were vested in the governor and council, or any two of that board: commissions were also granted, appointing masters, clerks, and a register; so that this court was completely organized on the 2d of September, 1701.

Atwood, who was then chief justice of the supreme court, was now sworn of the council. Abraham Depeyster and Robert Walters were his assistants on the bench; and the former was also made deputy auditor-general under Mr. Blaithwait. Sampson Shelton Broughton was the attorney-general, and came into that office when Atwood took his seat on the bench, before the decease of lord Bellomont. Both these had their commissions from England. The lieutenant governor and the major part of the board of council, together with the several officers above named, being strongly in the interest of the Leislerian party, it was not a little surprising that Mr. Nanfan dissolved the late assembly on the 1st of June last.

Great were the struggles at the ensuing elections, which however generally prevailed in favour of those who joined Leisler at the revolution; and hence, when the new assembly met on the 19th of August, 1701,



Abraham Gouverneur was elected for their speaker. Dutchess\* was thought heretofore incapable of bearing the charge of a representation; but the people of that county, now animated by the heat of the times, sent Jacob Rutsen and Adrian Garretson to represent them in assembly.

Mr. Nanfan, in his speech to the house, informs them of the memorable grant made to the crown, on the 19th of July, by the Five Nations, of a vast tract of land, to prevent the necessity of their submitting to the French in case of a war; that his majesty had given out of his exchequer two thousand five hundred pounds sterling for forts, and eight hundred pounds to be laid out in presents to the Indians; and that he had also settled a salary of three hundred pounds on a chief justice, and one hundred and fifty pounds on the attorney-general, who were both now arrived here.

The fire of contention which had lately appeared in the tumultuous elections blazed out afresh in the house. Nicoll, the late counsellor, got himself elected for Suffolk, and was in hopes of being seated in the chair; but Abraham Gouverneur was chosen speaker. Several members contended that he, being an alien, was unqualified for that station. To this it was answered, that he was in the province in the year 1683, at the time of passing an act to naturalize all the free inhabitants professing the christian religion; and that for this reason the same objection against him had been overruled at the last assembly. In return for this attack, Gouverneur disputed Nicoll's

\* That county, now so numerous and opulent, was assessed in the year 1702 below any other, contributing but £18 to a general tax of £2000.

right for sitting as a member of that house ; and succeeded in a resolve that he and Mr. Wessels, who had been returned for Albany, were both unqualified according to the late act, they being neither of them residents in the respective counties for which they were chosen. This occasioned an imprudent secession of seven members, who had joined the interest of Mr. Nicoll, which gave their adversaries an opportunity to expel them and introduce others in their stead.

Among the first opposers of captain Leisler none was more considerable than Mr. Livingston. The measures of the convention at Albany were very much directed by his advice, and he was peculiarly obnoxious to his adversaries because he was a man of sense and resolution, two qualifications rarely to be found united in one person at that day. Mr. Livingston's intimacy with the late earl had till this time been his defence against the rage of the party which he had formerly opposed ; but as that lord was now dead, and Mr. Livingston's conduct in council, in favour of colonel Smith, had given fresh provocation to his enemies, they were fully bent upon his destruction. It was in execution of this scheme, that as soon as the disputed elections were over, the house proceeded to examine the state of the public accounts, which they partly began at the late assembly.

The pretence was, that he refused to account for the public moneys he had formerly received out of the excise ; upon which a committee of both houses advised the passing a bill to confiscate his estate, unless he agreed to account by a certain day. But

instead of this, an act was afterwards passed to oblige him to account for a sum amounting to near eighteen thousand pounds. While this matter was transacting, a new complaint was forged, and he was summoned before another committee of both houses, relating to his procuring the Five Nations to signify their desire that he should be sent home to solicit their affairs. The criminality of this charge can be seen only through the partial optics with which his enemies then scanned his behaviour: besides there was no evidence to support it, and therefore the committee required him to purge himself by his own oath. Mr. Livingston, who was better acquainted with English law and liberty than to countenance a practice so odious, rejected the insolent demand with disdain; upon which the house, by advice of the committee, addressed the lieutenant-governor, to pray his majesty to remove him from his office of secretary of Indian affairs, and that the governor in the mean time would suspend him from the exercise of his commission.\*

It was at this favourable conjuncture that Jacob Leisler's petition to the king, and his majesty's letter to the late earl of Bellomont, were laid before the assembly. Leisler displeased with the report of the lords of trade, that his father and his brother Milborne had suffered according to law, laid his case before the parliament, and obtained an act to reverse the attainder.† After which he applied to the king,

\* Mr. Livingston's reason for not accounting was truly unanswerable; his books and vouchers were taken into the hands of the government, and detained from him.

† See Note K.

complaining that his father had disbursed about four thousand pounds, in purchasing arms and forwarding the revolution; in consequence of which he procured the following letter to lord Belliomont, dated at Whitehall, the 6th of February, 1700.

“ MY LORD,

“ The king being moved upon the petition of Mr. Jacob Leisler, and having a gracious sense of his father's services and sufferings, and the ill circumstances the petitioner is thereby reduced to, his majesty is pleased to direct, that the same be transmitted to your lordship, and that you recommend his case to the general assembly of New-York, being the only place where he can be relieved, and the prayer of his petition complied with.

“ I am, my lord, your lordship's

“ Most obedient and humble servant,

“ JERSEY.”

As soon as this letter and the petition were brought into the house, a thousand pounds were ordered to be levied for the benefit of Mr. Leisler, as well as several sums for other persons, by a bill for paying the debts of the government, which nevertheless did not pass into a law till the next session. Every thing that was done at this meeting of the assembly, which continued till the 18th of October, was under the influence of a party spirit; and nothing can be a fuller evidence of it, than an incorrect, impertinent address to his majesty, which was drawn up by the house at the close of the session, and signed by fourteen of the members. It contains

a tedious narrative of their proceedings relating to the disputed elections, and concludes with a little incense, to regale some of the then principal agents in the public affairs, in these words :

“This necessary account of ourselves and our unhappy divisions, which we hope the moderation of our lieutenant-governor, the wisdom and prudence of William Atwood, esq. our chief justice, and Thomas Weaver, esq. your majesty’s collector and receiver-general, might have healed, we lay before your majesty with all humility, and a deep sense of your majesty’s goodness to us, lately expressed in sending over so excellent a person to be our chief justice.”

The news of the king’s having appointed lord Cornbury to succeed the earl of Bellomont, so strongly animated the hopes of the Anti-Leislerian party, that about the commencement of the year 1702, Nicholas Bayard promoted several addresses to the king, the parliament, and lord Cornbury, which were subscribed at a tavern kept by one Hutchins, an alderman of the city of New-York. In that to his majesty, they assure him “that the late differences were not grounded on a regard to his interest, but the corrupt designs of those who laid hold on an opportunity to enrich themselves by the spoils of their neighbours.” The petition to the parliament says that Leisler and his adherents gained the fort at the revolution without any opposition ; that he oppressed and imprisoned the people without cause, plundered them of their goods and compelled them to flee their country, though they were well affected to the prince of Orange. That the earl of Bellomont appointed

indigent sheriffs, who returned such members to the assembly as were unduly elected, and in his lordship's esteem. That he suspended many from the board of council, who were faithful servants of the crown, introducing his own tools in their stead. Nay they denied the authority of the late assembly, and added that the house had bribed both the lieutenant-governor and the chief justice ; the one to pass their bills, and the other to defend the legality of their proceedings. A third address was prepared to be presented to lord Cornbury, to congratulate his arrival, as well to prepossess him in their favour as to prejudice him against the opposite party.

Nothing could have a more natural tendency to excite the wrath of the lieutenant-governor and the revenge of the council and assembly, than the reflections contained in those several addresses. Nanfan had no sooner received intelligence of them than he summoned Hutchins to deliver them up to him, and upon his refusal committed him to jail on the 19th of January ; the next day Nicholas Bayard, Rip Van Dam, Philip French, and Thomas Wenham, hot with party zeal, sent an imprudent address to the lieutenant-governor, boldly justifying the legality of the address, and demanding his discharge out of custody. I have before taken notice that upon Sloughter's arrival in 1691, an act was passed to recognize the right of king William and queen Mary to the sovereignty of this province. At the end of that law, a clause was added in these words : " That whatsoever person or persons shall by any manner of ways, or upon any pretence whatsoever, endeavour by force of arms or otherwise to disturb the peace, good, and

quiet of their majesties' government as it is now established, shall be deemed and esteemed as rebels and traitors unto their majesties, and incur the pains, penalties, and forfeitures as the laws of England have for such offences made and provided." Under pretext of this law, which Bayard himself had been personally concerned in enacting, Mr. Nanfan issued a warrant for committing him to jail as a traitor, on the 21st of January, and lest the mob should interpose, a company of soldiers for a week after constantly guarded the prison.

Through the uncertainty of the time of lord Cornbury's arrival, Mr. Nanfan chose to bring the prisoner to his trial as soon as possible, and for that purpose issued a commission of oyer and terminer on the 12th of February, to William Atwood, the chief justice, and Abraham Depeyster and Robert Walters, who were the puisne judges of the supreme court; and not long after Bayard was arraigned, indicted, tried, and convicted of high treason. Several reasons were afterwards offered in arrest of judgment, but as the prisoner was unfortunately in the hands of an enraged party, Atwood overruled what was offered, and condemned him to death on the 16th of March. As the process of his trial has been long since printed in the state trials at large, I leave the reader to his own remarks upon the conduct of the judges, who are generally accused of partiality.

Atwood, the chief justice, stimulated these prosecutions. Lord Cornbury's speech of 13th April, 1704, proves this :

"I must acquaint you, gentlemen, that her most sacred majesty, the queen, who is always watchful

for the good of her subjects, and considering the danger that some of her subjects of this colony were exposed to, by the wicked construction put by the then chief justice upon an act of assembly passed in 1691, intituled "An act &c." has been pleased to command me, and to recommend to you the repealing the last clause in the said act, her majesty being satisfied that no laws now in force in England are sufficient to punish any person who shall offend in that manner in these parts. The assembly express the highest gratitude, impute the queen's order to the misrepresentations of the governor, and rejoice that her goodness will put it "out of the power of vile, crafty, designing men, to vent their own wicked passions under the specious colours of law and justice."

Bayard applied to Mr. Nanfan for a reprieve till his majesty's pleasure might be known, and obtained it, not without great difficulty, nor till after a seeming confession of guilt was extorted. Hutchins, who was also convicted, was bailed upon the payment of forty pieces of Eight to the sheriff; but Bayard, who refused to procure him the gift of a farm of about fifteen hundred pounds value, was not released from his confinement till after the arrival of lord Cornbury, who not only gave his consent to an act for reversing the late attainders, but procured the queen's confirmation of it, upon their giving security according to the advice of Sir Edward Northey, not to bring any suits against those who were concerned in their prosecution; which the attorney-general thought proper, as the act ordained all the proceedings to be obliterated. Prior to the passing of that act Mr. Bayard



preferred what he entitled his petition and appeal to queen Anne ; in which he alleges that the indictment against him was found but by eleven jurors, several of whom were aliens. That the addresses charged to be treasonable were not read at the trial ; that the petty jury were aliens unduly returned and ignorant of the English language ; this request is for a day to be heard, and that copies of records and minutes, and depositions attested by lord Cornbury, may be received as evidences at the hearing ; that the attorney-general may be ordered to attend with Atwood and Weaver, who are both fled to London.

It is some confirmation of the petitioner's allegations, that the minutes of the privy council of 22d January, 1702, recites that the queen had that day heard counsel for the petitioner and alderman Hutchins ; and Atwood, the chief justice, and Weaver, the solicitor-general, by themselves and their counsels ; and that her majesty having considered this matter, was sensible of the undue and illegal prosecutions against the said Bayard and Hutchins ; and lord Cornbury was ordered to direct the attorney-general of the province "to consent to the reversal of the sentences against them and all issues and proceedings thereupon, and to do whatever else may be requisite in the laws, for reinstating the said Bayard and Hutchins in their honour and property, as if no such prosecution or trial had been." This is taken from the order under seal of the council signed Edward Southwell ; and in the minutes of the supreme court for October term, 1703, there is an entry in the following words, though it is not known how the records of the court of oyer and terminer

got there: "*Dom. Regina vs. Col. Nicholas Bayard.* Jamison, for defendant, moves to have judgment reversed that was given against the defendant for high treason, upon several errors brought by the direction of the queen in council; which errors being read and allowed by the court, and consented to by the attorney-general, it is ordered that judgment be reversed accordingly, and that the defendant Bayard be restored."

After Bayard's trial, Nanfan erected a court of exchequer, and again convened the assembly, who thanked him for his late measures, and passed an act to outlaw Philip French and Thomas Wenham, who absconded upon Bayard's commitment; another to augment the number of representatives; and several others, which were all but one afterwards repealed by queen Anne. During this session, lord Cornbury being daily expected, the lieutenant-governor suspended Mr. Livingston from his seat in council, and thus continued to abet Leisler's party to the end of his administration.

Lord Cornbury's arrival quite opened a new scene. His father, the earl of Clarendon, adhered to the cause of the late abdicated king, and always refused the oaths both to king William and queen Anne; but the son recommended himself at the revolution by appearing very early for the prince of Orange, being one of the first officers that deserted king James's army. King William in gratitude for his services gave him a commission for this government, which, upon the death of the king, was renewed by queen Anne, who at the same time appointed him to the chief command of New-Jersey, the govern-

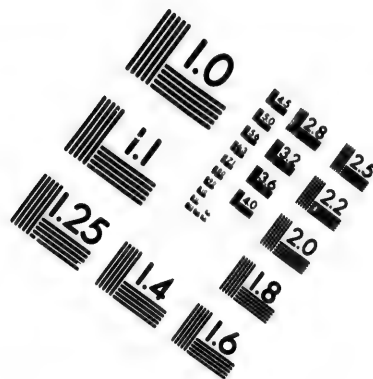
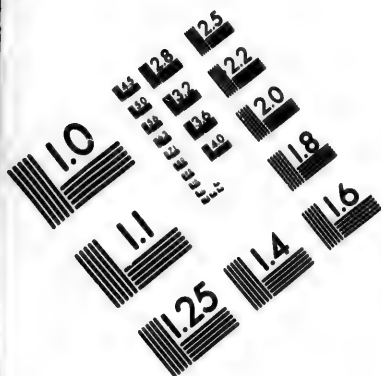
ment of which the proprietors had lately surrendered into her hands. As lord Cornbury came to this province in very indigent circumstances, hunted out of England by a host of hungry creditors, he was bent upon getting as much money as he could squeeze out of the purses of an impoverished people. His talents were perhaps not superior to the most inconsiderable of his predecessors; but in his zeal for the church he was surpassed by none. With great qualifications he began his administration the 3d of May, 1702, assisted by a council of the following members:—William Atwood, William Smith, Peter Schuyler, Abraham Depeyster, Samuel Staats, Robert Walters, Thomas Weaver, Sampson Shelton Broughton, Wolfgang William Romar, William Lawrence, Gerardus Beekman, Rip Van Dam.

His lordship, without the least disguise, espousing the anti-Leislerian faction, Atwood, the chief justice,\* and Weaver, who acted in quality of solicitor-general, thought proper to retire from his frowns to Virginia, whence they sailed to England: the former concealing himself under the name of Jones, while the latter called himself Jackson. Colonel Heathcote and doctor Bridges succeeded in their places at the council board.

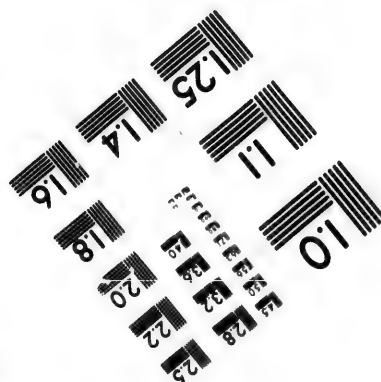
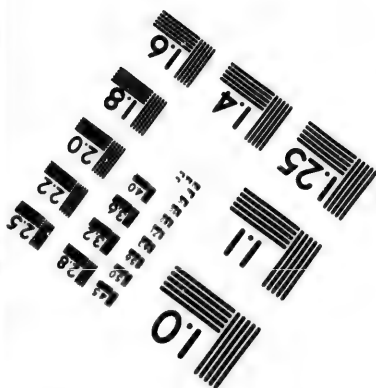
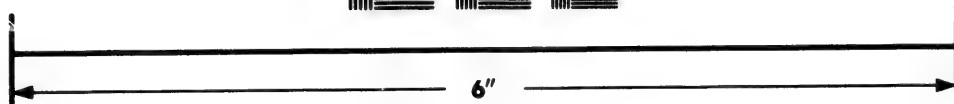
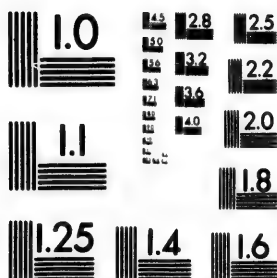
The following summer was remarkable for the uncommon mortality which prevailed in the city of New-York, and makes a grand epoch among our

\* He was at the same time Judge of the Vice Admiralty, and published his case in England, of which the assembly, in May, 1703, assert that it contained scandalous, malicious, notorious untruths, and unjust reflections on persons then in the administration of the province.





# **IMAGE EVALUATION TEST TARGET (MT-3)**



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inhabitants, distinguished by the "time of the great sickness."\* On this occasion lord Cornbury had his residence and court at Jamaica, a pleasant village on Long-Island, distant about twelve miles from the city.

The inhabitants of Jamaica consisted, at that time, partly of original Dutch planters, but mostly of New-England emigrants, encouraged to settle there, after the surrender, by the duke of York's conditions for plantations, one of which was in these words: "that every township should be obliged to pay their own ministers, according to such agreements as they should make with him: the minister being elected by the major part of the householders and inhabitants of the town." These people had erected an edifice for the worship of God, and enjoyed a handsome donation of a parsonage house and glebe, for the use of their minister. After the ministry act was passed by colonel Fletcher, in 1693, a few episcopalians crept into the town, and viewed the presbyterian church with a jealous eye. The town vote, in virtue of which the building had been erected, contained no clause to prevent its being hereafter engrossed by any other sect. The episcopal party who knew this, formed a design of seizing the edifice for themselves, which they shortly after carried into execution, by entering the church between the morning and evening service, while the presbyterian minister and his congregation were in perfect security, unsuspecting of the zeal of their

\* The fever killed almost every patient seized with it, and was brought here in a vessel from St. Thomas, in the West Indies, an island remarkable for contagious diseases.

adversaries, and a fraudulent ejectment on a day consecrated to sacred rest.

Great outrage ensued among the people, for the contention being *pro Aris et Focis*, was animating and important. The original proprietors of the house tore up their seats, and afterwards got the key and the possession of the church, which were shortly after again taken from them by force and violence. In these controversies the governor abetted the episcopal zealots, and harassed the others by numberless prosecutions, heavy fines, and long imprisonments; through fear of which many who had been active in the dispute fled out of the province. Lord Cornbury's noble descent and education should have prevented him from taking part in so ignominious a quarrel; but his lordship's sense of honour and justice was as weak and indelicate as his bigotry was rampant and uncontrollable; and hence we find him guilty of an act complicated of a number of vices, which no man could have perpetrated without violence to the very slightest remains of generosity and justice. When his excellency retired to Jamaica, one Hubbard, the presbyterian minister, lived in the best house in the town. His lordship begged the loan of it for the use of his own family, and the clergyman put himself to no small inconvenience to favour the governor's request; but in return for the generous benefaction, his lordship perfidiously delivered the parsonage-house into the hands of the episcopal party, and encouraged one Cardwel, the sheriff, a mean fellow, who afterward put an end to his own life, to seize upon the glebe, which he surveyed into lots, and farmed for the benefit of the



episcopal church. These tyrannical measures justly inflamed the indignation of the injured sufferers, and that again the more embittered his lordship against them. They resented, and he prosecuted; nor did he confine his pious rage to the people of Jamaica: he detested all who were of the same denomination; nay, averse to every sect except his own, he insisted that neither the ministers nor schoolmasters of the Dutch, the most numerous persuasion in the province, had a right to preach or instruct without his gubernatorial license; and some of them tamely submitted to his unauthoritative rule.\*

The royal instructions required the governors of the plantations to give all countenance and encouragement to the exercise of the ecclesiastical jurisdiction of the bishop of London, as far as conveniently, might be in their respective provinces, and particularly directed, "That no schoolmaster be henceforward permitted to come from this kingdom, and to keep school in that our said province, without the license of the said lord bishop of London, and that no other person now there, or that shall come from other parts, shall be admitted to keep school

\* It had been made a question in king William's reign, whether the keeping of schools was not by the ancient laws of England, prior to the reformation, of ecclesiastical cognizance. It was thought by some that a schoolmaster might be prosecuted in the ecclesiastical courts, for not bringing his scholars to church, according to the 79th canon in 1303. Treby, chief justice, and Powell, justice, were of opinion, that being a layman he was not bound by the canons.

In 1700, one case was libeled for teaching school at Exeter without the bishop's license, and though it was admitted that the canons did not bind the laity, yet it was conceived that the crown, since the reformation, had authority to vest the superintendency of schools in the ordinary, but a distinction was taken between grammar schools and schools for inferior instruction. A prohibition issued as to the teaching of all schools except *grammar schools*.

Vid. I. P. Williams' Rep. 29—33.

in your province without your license first obtained." There is reason to think this instruction has been continued from the revolution to the present time, to the governors of all the royal provinces.

A general account of his lordship's singular zeal is preserved, under the title of the Watch Tower, in a number of papers published in the New-York Weekly Mercury for the year 1755.

While his excellency was exerting his bigotry during the summer season at Jamaica, the elections were carrying on with great heat for an assembly, which met him at that village in the fall. It consisted principally of the party which had been borne down by the earl of Bellomont and his kinsman; and hence we find Philip French, who had lately been outlawed, was returned a representative for New-York, and William Nicoll elected into the speaker's chair.

Several extracts from his lordship's speech are proper to be laid before the reader, as a specimen of his temper and designs. "It was an extreme surprise to me (says his lordship) to find this province at my landing at New-York, in such a convulsion as must have unavoidably occasioned its ruin if it had been suffered to go on a little longer. The many complaints that were brought to me against persons I found here in power, sufficiently proved against them; and the miserable accounts I had of the condition of our frontiers, made me think it convenient to delay my meeting you in general assembly, till I could inform myself in some measure of the condition of this province, that I might be able to offer to your consideration some few of those things which

will be necessary to be done forthwith, for the defence of the country."

He then recommends the fortifying the port of New-York and the frontiers; adding, that he found the soldiers naked and unarmed; after which he proposes a militia bill, the erection of public schools, and an examination of the provincial debts and accounts; and not only promises to make a faithful application of the moneys to be raised, but that he would render them an account. The whole speech is sweetened with this gracious conclusion: "Now, gentlemen, I have no more to trouble you with, but to assure you in the name of the great queen of England, my mistress, that you may safely depend upon all the protection that good and faithful subjects can desire or expect from a sovereign whose greatest delight is the welfare of her people, under whose auspicious reign we are sure to enjoy what no nation in the world dares claim but the subjects of England; I mean the free enjoyment of the best religion in the world, the full possession of all lawful liberty, and the undisturbed enjoyment of our freeholds and properties. These are some of the many benefits which I take the inhabitants of this province to be well entitled to by the laws of England; and I am glad of this opportunity to assure you, that as long as I have the honour to serve the queen in the government of this province, those laws shall be put in execution, according to the intent with which they were made; that is, for the preservation and protection of the people, and not for their oppression. I heartily rejoice to see that the free choice of the people has fallen upon gentlemen whose constant

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fidelity to the crown and unwearied application to the good of their country is so universally known."

The house echoed back an address of high compliment to his lordship, declaring, "That being deeply sensible of the misery and calamity the country lay under at his arrival, they were not sufficiently able to express the satisfaction they had both in their relief and their deliverer."

Well pleased with a governor who headed their party, the assembly granted to him all he desired: eighteen hundred pounds were raised for the support of one hundred and eighty men to defend the frontiers, besides two thousand pounds more as a present towards defraying the expenses of his voyage. The queen, by her letter of the 20th of April, in the next year, forbade any such donations for the future. It is observable that though the county of Dutchess had no representatives at this assembly, yet such was then the known indigence of that now populous and flourishing county, that but eighteen pounds were apportioned for their quota of these levies.

Besides the acts above mentioned, the house brought up a militia bill, continued the revenue to the 1st of May, 1709, and passed a law to establish a grammar school according to his lordship's recommendation. Besides the great harmony that subsisted between the governor and his assembly, there was nothing remarkable except two resolves against the court of chancery erected by Mr. Nanfan, occasioned by a petition of several disappointed suitors who were displeased with a decree. The resolutions were in these words: "That the setting up a

court of equity in this colony, without consent of the general assembly, is an innovation without any former precedent, inconvenient and contrary to the English law." And again: "That the court of chancery, as lately erected and managed here, was and is unwarrantable, a great oppression to the subject, of pernicious example and consequence; that all proceedings, orders, and decrees in the same are, and of right ought to be, declared null and void; and that a bill be brought in according to these two resolutions," which was done; but though his lordship was by no means disinclined to fix contempt on Nanfan's administration, yet as this bill would diminish his own power, himself being the chancellor, the matter was never moved farther than to the order for the engrossment of the bill upon a second reading.

Though a war was proclaimed by England on the 4th of May, 1702, against France and Spain, yet as the Five Nations had entered into a treaty of neutrality with the French in Canada, this province, instead of being harassed on its borders by the enemy, carried on a trade very advantageous to all those who were concerned in it. The governor, however, continued his solicitations for money with unre-mitted importunity, and by alarming the assembly, which met in April, 1703, with his expectation of an attack by sea, fifteen hundred pounds were raised, under pretence of erecting two batteries at the Narrows; which, instead of being employed for that use, his lordship, notwithstanding the province had expended twenty-two thousand pounds during the late

peace, was pleased to appropriate to his private advantage.\* But let us do him the justice to confess, that while he was robbing the public he at the same time consented to several other laws for the emolument of the clergy.

Whether it was owing to the extraordinary sagacity of the house, or their presumption that his lordship was as little to be trusted as any of his predecessors, after voting the above sum for the batteries, they added, that it should be "for no other use whatsoever," I leave the reader to determine. It is certain they now began to see the danger of throwing the public money into the hands of a receiver-general appointed by the crown, from whence the governor by his warrants might draw it at his pleasure. To this cause we must assign it, that in an address to his lordship, on the 19th of June, 1703, they "desire and insist that some proper and sufficient person might be commissioned treasurer, for the receiving and paying such moneys now intended to be raised for the public use, as a means to obstruct misapplications for the future." Another address was sent home to the queen, complaining of the ill state of the revenue through the frauds which had formerly been committed, the better to facilitate the important design of having a treasurer dependent on the assembly. The success of these measures will appear in the sequel.

\* The vote on the ways and means to raise this sum is singular: Every member of the council to pay a poll tax of forty shillings; an assembly man, twenty shillings; a lawyer in practice, twenty shillings; every man wearing a periwig, five shillings and six pence; a bachelor of twenty-five years and upwards, two shillings and three pence; every freeman between sixteen and sixty, nine pence; the owners of slaves, for each, one shilling.

Though our frontiers enjoyed the profoundest tranquillity all the next winter, and we had expended thirteen hundred pounds in supporting one hundred fusiliers about Albany, besides the four independent companies in the pay of the crown, yet his excellency demanded provisions for one hundred and fifty men at the next meeting of the assembly, in April, 1704. The house having reason to suspect that the several sums of eighteen and thirteen hundred pounds lately raised for the public service, had been prodigally expended or embezzled, prudently declined any farther aids till they were satisfied that no misapplication had been made; for this purpose they appointed a committee, who reported that there was a balance of near a thousand pounds due to the colony. His lordship, who had hitherto been treated with great complaisance, took offence at this parsimonious scrutiny, and ordered the assembly to attend him; when, after the example of Fletcher, whom, abating that man's superior activity, his lordship most resembled, he made an angry speech, in which he charges them with innovations never attempted by their predecessors, and hopes they may not force him to exert "certain powers" vested in him by the queen. But what he more particularly took notice of was their insisting in several late bills upon the title of "General Assembly," and a saving of the "Rights of the House," in a resolve agreeing to an amendment for preventing delay, with respect to which his lordship has these words: "I know of no right that you have as an assembly, but such as the queen is pleased to allow you." As to the vote by which they found a balance due to the colony of



nine hundred and thirteen pounds, fifteen shillings, "it is true (says his lordship) the queen is pleased to command me, in her instructions, to permit the assembly from time to time, to view and examine the accounts of money, or value of money, disposed by virtue of the laws made by them, but you can in nowise meddle with that money; but if you find any misapplication of any of that money, you ought to acquaint me with it, that I may take care to see those mistakes rectified, which I shall certainly do."

The house bore these rebukes with the utmost passiveness, contenting themselves with little else than a general complaint of the deficiency of the revenue, which became the subject of their particular consideration in the fall; but though they avowed it to be their endeavour to conform to the letter and intent of the governor's commission, and denied the charge of a design to assume any of the powers of government, their address contained a clause which discovered a high and firm spirit:

"My lord, this assembly being intrusted by the people of this plantation with the care of their liberties and properties, and sensible of their own weakness, lest through ignorance or inadvertency, they should consent to any thing hurtful to themselves or their posterity, in all things admitting of doubts are willing to save their rights: and those rights they mean to be that natural and civil liberty so often claimed, declared, and confirmed by the English laws, and which they conceive every free Englishman is entitled to. Whatsoever else may admit of controversy, the people of this colony think they have an undoubted, true, and entire property in



their goods and estates, of which they ought not to be divested but by their free consent, in such manner, to such ends and purposes, as they shall think fit, and not otherwise. If the contrary should be admitted, all notion of property would cease; every man is the most proper judge of his own capacity in giving, and the present extreme poverty of this country is both visible and too apparent."

The following was an answer from his lordship:

"I think it my duty to require you (which I now do) to lay before me, as soon as may be, what those rights are, which you pretend to save in that vote." His lordship could expect only a general answer, nor from the moderate principles of the people of that day, did he dread intimations inconsistent with their loyalty to the queen, or their disaffection to the parent kingdom. The colony politicians of early days contented themselves with general declarations owning a subordination, and yet claiming English privileges; leaving it to their posterity to ascertain the boundary between the supremacy of England and the submission of her colonies. Happy if both countries had adopted the poet's rule,

*"Sunt certi denique fines*

*Quos ultra citra que nequit consistere rectum."*

The council and assembly spoke the general sense of the colony in the following passage of their joint representation in favor of the port of Oswego:

"October 29th, 1730. We are truly sensible of, and as truly grateful for, the many principal favours by which his majesty and his royal predecessors have distinguished this colony. Our loyalty and fidelity to his illustrious house, our unfeigned love

and affection for our mother country, and the happy dependance which we have upon the crown and kingdom of Great Britain, lay us under all natural and civil obligations so to act in humble station, as may render us useful and serviceable."

Our ancestors claimed every social benefit not injurious to the mother country, nor inconsistent with their loyalty to the crown or their dependance upon Great Britain.

The governor on the one hand, then proposed an additional duty of ten per cent. on certain goods not immediately imported from Europe, to which the assembly on the other were utterly averse, and as soon as they resolved against it, the very printer, clerk, and door-keeper, were denied the payment of their salaries. Several other demands being made for the public debts, the house resolved to address his lordship for an exact account of the revenue, which, together with their refusal to admit the council's amendment to a money bill, gave him such high provocation, that he was induced to dissolve an assembly, whose prodigal liberality had justly exposed them to the resentment of the people.

The lords of trade approved of the dissolution, and added: "we conceive no reason why the council should not have a right to amend all bills sent up by the assembly, even those relating to money." It continued nevertheless to be the unparliamentary practice of that day (1704) not only to send reasons in writing for and against amendments proposed to bills, but for the speaker to go up with the whole house to a dialogue with the council, where the

governor taking the chair, he became a party in all disputes between the council and assembly.

The new assembly which met on the 14th of June, 1705, neglected the affair of the revenue and the additional duty, though his lordship strongly recommended them both. Among the principal acts passed at this meeting is that for the benefit of the clergy, who were entitled to the salaries formerly established by colonel Fletcher, which, though less than his lordship recommended, was doubtless a grateful offering to his unceasing zeal for the church, manifested in a part of his speech at the opening of the session in these words: "The difficulties which some very worthy ministers of the church of England have met with, in getting the maintainance settled upon them by an act of the general assembly of this province, passed in the year 1693, moves me to propose to you the passing an act explanatory of the before-mentioned act, that those worthy men who have ventured to come so far for the service of God in his church, and the good and edification of the people, to the salvation of their souls, may not for the future be vexed, as some of them have been; but may enjoy in quiet that maintainance which was by a law provided for them.\* I farther recommend to you, the passing an act to provide for the maintainance of some ministers in some of the towns at the east end of Long-Island, where I do not find any provision has been yet made for propagating religion."

\* The majority of our people are of a contrary opinion, if my lord thought the establishment was designed only for the episcopal clergy.

Our harbour being wholly unfortified, a French privateer actually entered it in 1705, and put the inhabitants into great consternation. The assembly, at their session in June, the next year, were not disinclined, through the importunity of the people, to put the city in a better posture of defence for the future; but being fully convinced, by his lordship's embezzlement of £1500 formerly raised for two batteries at the Narrows, and near £1000 levied for the protection of the frontiers, that he was no more to be trusted with public moneys, offered a bill for raising £3000 for fortifications, appointing that sum to be deposited in the hands of a private person of their own nomination; but his excellency did not pass it till their next meeting in the fall, when he informed them that he had received the queen's commands, "to permit the general assembly to name their own treasurer when they raised extraordinary supplies for particular uses, and which are no part of the standing and constant revenue; the treasurer being accountable to the three branches of the legislature, and the governor always acquainted with the occasion of issuing such warrants; and all persons concerned in the issuing and disposing of such moneys must be made accountable to the governor, council, and assembly."

The vote to appoint a treasurer for the public money they raised, passed on the 20th of June, 1705. The assembly soon after took occasion, in framing a bill to defray the charges of fusiliers, spies, and outscouts, for the defence of the frontiers, to render the sums due payable by *their treasurer*. The council called them to a conference upon it the

4th of October. The assembly desired their objections in writing. These were,

1. That it gave a sum to her majesty and not to her *heirs* and *successors*.

2. That the treasurer is compelled to give security to account to the general assembly, instead of the crown, the high treasurer, or commissioners of the treasury.

3. That the moneys are made issuable upon private certificates of service. And the council say they proceed upon the royal instructions, which they recite.

The assembly answer to the first, that it is plain from the bill that the money to be raised is for the use of the crown, and the bill in this respect similar to others passed by this governor and approved at home.

To the second, that though he is made accountable to the general assembly, there is nothing in the bill to prevent his accounting also to the queen and the treasury.

Relative to the third, they observe that the instruction had been generally taken as a restriction on the governors, against the disposition of public money without the approbation of the council, and they insist upon the clauses,

1. Because governors and receivers-general have always quarrelled, and the latter been suspended, and all accounting thereby eluded.

2. Because receivers, on the loss of their offices, have generally left the province.

3. Because money raised for the defence of Albany had never been applied to that use.

The conferences closed by the revival of the objection to the council's interfering in the amendments of money bills; and a sudden prorogation followed, to such a distant day, as his lordship was afterwards compelled to retract for an earlier meeting, not without exciting doubts concerning the legality of their next convention, some months before the day to which they had been in a passion prorogued.

Though there was then reason to apprehend an attack from the French, and several bills were passed to raise money for the defence of the colony, his lordship could not prevail upon the assembly to waive their objections, so that the services remained unprovided for until the assembly carried their point of having a treasurer of their own, with the queen's consent, as above expressed in his lordship's speech of 27th September, 1706. By a clause in an act for raising a fund for the defence of the frontiers, passed 5th Anne, the treasurer was to give such security as William Nicoll, the then speaker, should approve, but no recognizance or bond could ever be found.

His lordship's renewing the proposal of raising fortifications at the Narrows, which he had himself hitherto scandalously prevented, is a proof of his excessive effrontery and contempt of the people; and the neglect of the house to take the least notice either of that matter or the revenue, occasioned another dissolution.

Before I proceed to the transactions of the new assembly, which did not meet till the year 1708, it will not be improper to lay before the reader the account of a memorable proof of that persecuting

spirit which influenced lord Cornbury's whole administration.

The inhabitants of the city of New-York consisted at this time of Dutch Calvinists, upon the plan of the church of Holland; French refugees, on the Geneva model; a few English episcopalians; and a still smaller number of English and Irish presbyterians, who having neither a minister nor a church, used to assemble themselves every Sunday at a private house, for the worship of God. Such were their circumstances when Francis M'Kemie and John Hampton, two presbyterian ministers, arrived here in January, 1707. As soon as lord Cornbury, who hated the whole persuasion, heard that the Dutch had consented to M'Kemie's preaching in their church, he arbitrarily forbid it; so that the public worship, on the next sabbath, was performed with open doors at a private house. Mr. Hampton preached the same day at the presbyterian church in New-Town, distant a few miles from the city. At that village both these ministers were two or three days after apprehended by Cardwel, the sheriff, pursuant to his lordship's warrant, for preaching without his license. From thence they were led in triumph a circuit of several miles through Jamaica to New-York. They appeared before his lordship with an undaunted courage, and had a conference with him, in which it is difficult to determine whether my lord excelled in the character of a savage bigot or an unmannerly tyrant. The ministers were no lawyers, or they would not have founded their justification on the supposed extent of the English act of toleration. They knew not that the



ecclesiastical statutes had no relation to this colony ; and that its religious state consisted in a perfect parity between protestants of all denominations. They erroneously supposed that all the penal laws extended to this province, and relied for their defence on the toleration act, offering testimonials of their having complied with that act in Virginia and Maryland, and promised to certify the house in which M'Kemie had preached to the next sessions. His lordship's discourse with them was the more ridiculous, because he had Bickley, the attorney-general, to assist him. Against the extension of the statute, they insisted that the penal laws were limited to England, and so also the toleration act, because the sole intent of it was to take away the penalties formerly established. But grant the position, and the consequence they drew from it argues that my lord and Mr. Attorney were either very weak, or influenced by evil designs. If the penal laws did not extend to the plantations, then the prisoners were innocent, for where there is no law there can be no transgression ; but according to these incomparable sages, if the penal laws and the toleration act were restricted to the realm of England, as they contended, then the poor clergymen, for preaching without his license, were guilty of a heinous crime against his private, unpublished instructions ; and for this cause he issued an informal precept to the sheriff of New-York, for their commitment to jail till further orders. They continued in confinement, through the absence of Mompesson, the chief justice, who was in New-Jersey, six weeks and four days, but were then brought before him by writ of



*habeas corpus.* Mompesson being a man of learning in his profession, and his lordship now apprised of the illegality of his first warrant, issued another on the very day of the test of the writ, in which he virtually contradicts what he had before insisted on at his conference with the prisoners. For according to this, they were imprisoned for preaching without being qualified as the toleration act required, though they had offered themselves to the sessions during their imprisonment. They were then bailed to the next supreme court, which began a few days after. Great pains were taken to secure a grand jury for the purpose, and among those who found the indictment, to their shame be it remembered, were several Dutch and French protestants.

Mr. M'Kemie returned to New-York, from Virginia, in June, and was now come to his trial on the indictment found at the last court. As to Mr. Hampton, he was discharged, no evidence being offered to the grand jury against him.

Bickley, the attorney general, managed the prosecution in the name of the queen ; Reignere, Nicoll, and Jamison appeared for the defendant. The trial was held on the 6th of June, and being a cause of great expectation, a numerous audience attended. Roger Mompesson sat on the bench as chief justice, with Robert Milward and Thomas Wenham for his assistants. The indictment was in substance, that Francis M'Kemie, pretending himself to be a protestant dissenting minister, contemning and endeavouring to subvert the queen's ecclesiastical supremacy, unlawfully preached without the governor's license first obtained, in derogation of the royal

authority and prerogative: that he used other rites and ceremonies than those contained in the common-prayer book. And lastly, that being unqualified by law to preach, he nevertheless did preach at an illegal conventicle: and both these last charges were laid to be contrary to the form of the English statutes. For it seems that Mr. Attorney was now of opinion, that the penal laws did extend to the American plantations, though his sentiments were the very reverse at the first debate before his excellency: but Bickley was rather remarkable for a voluble tongue, than a penetrating head or much learning. To support this prosecution he endeavoured to prove the queen's ecclesiastical supremacy in the colonies, and that it was delegated to her noble cousin the governor; and hence he was of opinion that his lordship's instructions relating to church matters had the force of a law. He in the next place contended for the extension of the statutes of uniformity, and upon the whole, was pleased to say that he did not doubt the jury would find a verdict for the queen. Reignere, for the defendant, insisted that preaching was no crime by the common law, that the statutes of uniformity and the act of toleration did not extend here, and that the governor's instructions were not laws. Nicoll spoke to the same purpose, and so did David Jamison; but M'Kemie concluded the whole defence in a speech, which sets his capacity in a very advantageous light. The reader may see it in the narrative of this trial, which was first published at the time, and since reprinted at New-York in the year 1755. The chief justice, in his charge, advised a special verdict, but the jury found no dif-

ficulty to acquit the defendant, who through the shameful partiality of the court, was not discharged from his recognizance, till they had illegally extorted all the fees of his prosecution, which, together with his expenses, amounted to eighty-three pounds seven shillings and six pence.

Lord Cornbury was now daily losing the favour of the people. The friends of Leisler had him in the utmost abhorrence from the beginning, and being all spies upon his conduct, it was impossible for his lordship to commit the smallest crime unnoticed. His persecution of the presbyterians very early increased the number of his enemies; the Dutch too were fearful of his religious rage against them, as he disputed their right to call and settle ministers, or even schoolmasters without his special license. His excessive avarice, his embezzlement of the public money, and his sordid refusal to pay his private debts, bore so heavily upon his reputation, that it was impossible for his adherents either to support him or themselves against the general opposition. Such being the temper of the people, his lordship did not succeed according to his wishes in the new assembly, which met on the 19th of August, 1708. The members were all against him, and William Nicoll was again chosen speaker.

Among the several things recommended to their consideration, the affair of the revenue, which was to expire in May following, and the propriety of making presents to the Indians were the chief; the house were not insensible of the importance of the Indian interest, and of the infinite arts of the French to seduce them from our alliance, but suspicious that

his lordship, who heretofore had given himself little concern about that matter, was seeking a fresh opportunity to defraud the public, they desired him to give them a list of the articles of which the presents were to consist, together with an estimate of the charge, before they would provide for that donation.

With respect to the revenue, his lordship was not so successful, for the assembly resolutely refused to continue it; though they consented to an act to discharge him from a contract of £250, and upwards, which he had made with one Hanson for the public service. Thomas Byerly was at that time collector and receiver-general, and by pretending that the treasury was exhausted, the debts of the government were unpaid. This gave rise to many petitions to the assembly to make provision for their discharge. Colonel Schuyler, who had expended large sums on the public credit, was among the principal sufferers, and joined with several others in an application to the house, that Byerly might be compelled to account. The disputes relating to this matter took up a considerable part of the session, and were litigated with great heat. Upon the whole an act was passed for refunding £700 which had been misapplied.

The resolutions of the committee of grievances, approved by the house, show the general objections of the people to his lordship's administration. These were made at the beginning of the session, and yet we find this haughty lord subdued by the opposition against him, and so dispirited through indigence, and the incessant solicitations of his creditors, that he not only omitted to justify himself, but to show

even an impotent resentment; for after all the censures of the house, he tamely thanked them for passing the bill to discharge him from a small debt, which they could not in justice have refused. The resolutions were in these words:

*"Resolved,* That it is the opinion of this committee, that the appointing coroners in this colony, without their being chosen by the people, is a grievance and contrary to law.\*

*"Resolved,* That it is and always has been the unquestionable right of every freeman in this colony, that he hath a perfect and entire property in his goods and estate.

*"Resolved,* That the imposing and levying of any moneys upon her majesty's subjects of this colony, under any pretence or colour whatsoever, without consent in general assembly, is a grievance and a violation of the people's property.

*"Resolved,* That for any officer whatsoever to extort from the people extravagant and unlimited fees, or any money whatsoever, not positively established and regulated by consent in general assembly, is unreasonable and unlawful, a great grievance, and tending to the utter destruction of all property in this plantation.

*"Resolved,* That the erecting a court of equity without consent in general assembly, is contrary to law, without precedent, and of dangerous consequence to the liberty and property of the subjects.

*"Resolved,* That the raising of money for the government, or other necessary charge, by any tax,

\* See lord Bacon's works, fol. edit. vol. II. 152; and yet the coroners in every county are still appointed by the governor.

impost, or burthen on goods imported, or exported, or any clog, or hindrance on traffic or commerce, is found by experience to be the expulsion of many, and the impoverishing of the rest of the planters, freeholders, and inhabitants of this colony; of most pernicious consequence, which, if continued, will unavoidably prove the ruin of the colony.

*"Resolved,* That the excessive sums of money screwed from masters of vessels trading here under the notion of port charges, visiting the said vessels by supernumerary officers, and taking extraordinary fees, is the great discouragement of trade, and strangers coming amongst us, beyond the precedent of any other port, and without colour of law.

*"Resolved,* That the compelling any man, upon trial by a jury or otherwise, to pay any fees for his prosecution, or any thing whatsoever, unless the fees of the officers whom he employs for his necessary defence, is a great grievance, and contrary to justice."\*

Lord Cornbury was no less obnoxious to the people of New-Jersey than to those of New-York. The assembly of that province, impatient of his tyranny, drew up a complaint against him, which they sent home to the queen.

Her majesty graciously listened to the cries of her injured subjects, divested him of his power, and appointed lord Lovelace in his stead, declaring that she would not countenance her nearest relations in oppressing her people.

As soon as my lord was superseded, his creditors

\* This had a special relation to the late prosecution of Mr. McKemie.

threw him into the custody of the sheriff of New-York; and he remained here till the death of his father, when succeeding to the earldom of Clarendon, he returned to England.

We never had a governor so universally detested, nor any who so richly deserved the public abhorrence. In spite of his noble descent, his behaviour was trifling, mean, and extravagant.

It was not uncommon for him to dress himself in a woman's habit, and then to patrol the fort in which he resided. Such freaks of low humour exposed him to the universal contempt of the people; but their indignation was kindled by his despotic rule, savage bigotry, insatiable avarice, and injustice not only to the public but even his private creditors; for he left some of the lowest tradesmen in his employment unsatisfied in their just demands.

John, lord Lovelace, baron of Hurley, was appointed to this government in the spring, 1708, but did not arrive here till the 18th of December following. Lord Cornbury's oppressive, mean administration had long made the people very desirous of a change; and therefore his successor was received with universal joy. Having dissolved the general assembly soon after his accession to the government, he convened a new one on the 5th of April, 1709, which consisting of members of the same interest with the last, re-elected William Nicoll, the former speaker, into the chair. His lordship told them at the beginning of the session, "That he had brought with him large supplies of soldiers and stores of war, as well as presents for the Indians," than which nothing could be more agreeable to the people. He

lamented the greatness of the provincial debts, and the decay of public credit; but still recommended their raising a revenue, for the same term with that established by the act in the 11th year of the last reign. He also pressed the discharge of the debts of the government, and their examination of the public accounts, "that it may be known (says he) what this debt is, and that it may appear hereafter to all the world, that it was not contracted in my time." This oblique reflection upon his predecessor, who was now ignominiously imprisoned by his creditors, was displeasing to no body.

Though the assembly in their answer, heartily congratulated his lordship's arrival, and thanked the queen for her care of the province, yet they sufficiently intimated their disinclination to raise the revenue, which the governor had requested. "Our earnest wishes (to use the words of the address) are that suitable measures may be taken to encourage the few inhabitants left to stay in it, and others to come. The just freedom enjoyed by our neighbours, by the tender indulgence of the government, has extremely drained and exhausted us both of people and stock; whilst a different treatment, the wrong methods too long taken, and severities practised here, have averted and deterred the usual part of mankind from settling and coming hitherto." Towards the close, they assure him, "that as the beginning of his government gave them a delightful prospect of tranquillity, so they were come with minds prepared to consult the good of the country and his satisfaction."



The principal matter which engaged the attention of the assembly, was the affair of the revenue. Lord Cornbury's conduct had rendered them utterly averse to a permanent support for the future, and yet they were unwilling to quarrel with the new governor. They however at last agreed on the 5th of May, to raise £2500 to defray the charges of the government to the 1st of May ensuing, £1600 of which was voted to his excellency, and the remaining sums towards a supply of fire wood and candles to the several forts in New-York, Albany, and Schenectady; and for payment of small salaries to the printer, clerk of the council, and Indian interpreter.

This new project of providing annually for the support of government, was contrived to prevent the mischiefs to which the long revenues had formerly exposed us. But as it rendered the governor and all the other servants of the crown dependent upon the assembly, a rupture between the several branches of the legislature would doubtless have ensued; but the very day in which the vote passed the house his lordship died of a disorder contracted in crossing the ferry at his first arrival in the city of New York. His lady continued here long after his death, soliciting for the sum voted to her husband; but though the queen interposed by a letter in her behalf, nothing was allowed till several years afterwards.

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THE  
**HISTORY OF NEW-YORK.**

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**PART IV.**

**FROM THE CANADA EXPEDITION IN 1709, TO THE  
ARRIVAL OF GOVERNOR BURNET.**

LORD Lovelace being dead, the chief command devolved upon Richard Ingoldsby, the lieutenant-governor, the same who had exercised the government several years before, upon the decease of colonel Sloughter. His short administration is remarkable, not for his extraordinary talents, for he was a heavy man, but for a second fruitless attempt against Canada. Colonel Vetch, who had been several years before at Quebec, and sounded the river St. Lawrence, was the first projector of this enterprise. The ministry approved of it, and Vetch arrived in Boston and prevailed upon the New-England colonies to join in the scheme. After that he came to New-York, and concerted the plan of operations with Francis Nicholson, formerly our lieutenant-governor, who at the request of Ingoldsby, the council, the assembly, Gurdon Saltonstal, the governor of Connecticut, and Charles Gookin, lieutenant-governor of Pennsylvania, accepted the chief

command of the provincial forces, intended to penetrate into Canada by the way of Lake Champlain. Impoverished as we were, the assembly joined heartily in the enterprise. It was at this juncture our first act for issuing bills of credit was passed, an expedient without which we could not have contributed to the expedition, the treasury being then totally exhausted. Universal joy now brightened every man's countenance, because all expected the complete reduction of Canada before the ensuing fall. Big with the pleasing prospect of an event which would put a period to all the ravages of an encroaching, merciless enemy, extend the British empire, and augment our trade, we exerted ourselves to the utmost for the success of the expedition. As soon as the design was made known to the house, twenty ship and house carpenters were impressed into the service for building batteaus; commissioners also were appointed to purchase provisions and other necessities, and empowered to break open houses for that purpose, and to impress men, vessels, horses, and wagons, for transporting the stores. Four hundred and eighty-seven men, besides the independent companies, were raised and despatched to Albany by the 27th of June, from whence they advanced with the main body to the wood creek. Three forts were built there, besides many block-houses and stores for the provisions, which were transported with great despatch. The province of New-York, all things considered, has the merit of having contributed more than any of her neighbours towards this expedition. Pennsylvania gave no kind of aid, and New-Jersey was only at the expense of

£3000. One hundred batteaus, as many birch canoes, and two of the forts were built entirely, and the other fort for the most part, at the charge of this government. All the provisions and stores for the army were transported at our expense ; and besides our quota of volunteers and the independent companies, we procured and maintained six hundred Indians, and victualed a thousand of their wives and children at Albany during the campaign.

The history of an infant country must consist of many events comparatively trivial: they were nevertheless often characteristic. Some of our levies for the expedition were Dutchmen. General Nicholson applied to Mr. Dubois, a city minister, for a person to read prayers to the Dutch soldiery. Dubois, who, if one may so speak, was a presbyterian bishop among the Dutch churches, then supplied with pastors from Holland and other parts of the United Provinces, and under the care of the Classis of Amsterdam, informed the assembly of this request. The house named a serious layman, of the name of Paulus Van Vlech, for this service, and ordered Mr. Dubois and two other Dutch ministers to examine him before two of the council and as many assemblymen, "and if he was found orthodox, to ordain and qualify him for the ministerial function accordingly." Van Vlech urged their compliance, and had a second command upon the ministers. Two of them, Dubois and Antonides, signified by a memorial, "That they were not empowered to ordain any person to the ministerial function in the Dutch churches, by the directions of the Classis of Amsterdam ; and therefore prayed they may not be ordered

to do any thing inconsistent with the constitution of the church to which they belong." Colonel Livingston presented this memorial, upon which no other step was taken.

The legislature was at that time chiefly composed of members of the Dutch churches, in which the ministers had great sway; and therefore the clergy were puzzled with no questions, respecting the divine rights of ordination, claimed by all presbyterian ministers; nor a doubt started concerning the authority of the Classis of Amsterdam, under the capitulatory articles of 1664.

Having put ourselves to the expense of above twenty thousand pounds towards this enterprise, the delay of the arrival of the fleet spread a general discontent through the country; and early in the fall, the assembly addressed the lieutenant-governor to recall our forces from the camp. Vetch and Nicholson soon after broke up the campaign, and retired to Newport in Rhode-Island, where there was a congress of governors. Ingoldsby, who was invited to it, did not appear in compliance with the inclination of the assembly, who incensed at the public disappointment, harboured great jealousies of all the first promoters of the design. As soon therefore, as lord Sunderland's letters, which arrived here on the 21st of October, were laid before the house, they resolved to send an address to the queen, to lay before her a true account of the manner in which this province had exerted itself in the late undertaking.

Had this expedition been vigorously carried on, doubtless it would have succeeded: the public affairs

at home were conducted by a wise ministry, the allied army triumphed in repeated successes in Flanders, and the court of France was in no condition to give assistance to so distant a colony as Canada. The Indians of the Five Nations were engaged, through the indefatigable solicitations of colonel Schuyler, to join heartily in the attempt; and the eastern colonies had nothing to fear from the Ouwenagungas, because those Indians had a little before concluded a peace with the confederates. In America every thing was ripe for the attack: at home, lord Sunderland, the secretary of state, had proceeded so far as to despatch orders to the queen's ships at Boston to hold themselves in readiness, and the British troops were upon the point of their embarkation. At this juncture, the news arrived of the defeat of the Portuguese, which reducing our allies to great straits, the forces intended for the American adventure were then ordered to their assistance, and the thoughts of the ministry entirely diverted from the Canada expedition.

As we had not a man in this province, who had more extended views of the importance of driving the French out of Canada than colonel Schuyler, so neither did any person more heartily engage in the late expedition. To preserve the friendship of the Five Nations, without which it would be impossible to prevent our frontiers from becoming a field of blood, he studied all the arts of insinuating himself into their favour: he gave them all possible encouragement and assistance, and very much impaired his own fortune by his liberality to their chiefs.

They never came to Albany but they resorted to his house, and even dined at his table; and by this means he obtained an ascendancy over them which was attended with very good consequences to the province, for he could always in a great degree, obviate or eradicate the prejudices and jealousies, by which the French jesuits were incessantly labouring to debauch their fidelity.

Impressed with a strong sense of the necessity of some vigorous measures against the French, colonel Schuyler was extremely discontented at the late disappointment, and resolved to make a voyage to England at his private expense, the better to inculcate on the ministry the absolute necessity of reducing Canada to the crown of Great Britain. For that purpose he proposed to carry home with him five Indian chiefs. The house no sooner heard of his design than they came to a resolution, which in justice to his distinguished merit I ought not to suppress. It was this:

“Resolved, *Nemine contradicente*, That the humble address of the lieutenant-governor, council, and general assembly of this colony to the queen, representing the present state of this plantation, be committed to his charge and care, to be presented by himself to her sacred majesty; he being a person who not only in the last war, when he commanded the forces of this colony in chief at Canada, but also in the present, has performed faithful services to this and the neighbouring colonies, and behaved himself in the offices with which he has been intrusted with good reputation, and the general satisfaction of the people in these parts.”

The address to the queen contains this ill-penned but interesting information: "We conceive it our indispensable duty to lay at your royal foot how dangerous the French are seated at Canada, and the maxims they follow for making themselves formidable there. It is well known they can go by water from Quebec to Montreal. From thence they can do the like, through rivers and lakes, at the back of all your majesty's plantations on this continent as far as Carolina; and in this large tract of country live several nations of Indians who are vastly numerous: among those they constantly send emissaries and priests, with toys and trifles, to insinuate themselves into their favour. Afterwards they send traders, then soldiers, and at last build forts among them; and the garisons are encouraged to intermarry, cohabit, and incorporate among them; and it may easily be concluded, that upon a peace many of the disbanded soldiers will be sent thither for that purpose. They having already a fort and garison at Tieughsaghrondie, being the chief hunting place of our Indians, and about five hundred miles from Canada; and other forts and settlements as many miles further: how pernicious this in time will prove to your majesty's subjects on this coast, we cannot think on but with the greatest concern; for should they, having by degrees brought those vast nations to their devotions, fall on your majesty's said plantations, it would hardly be in the power of any forces that could be sent from Great Britain to reclaim or reduce them; it being impossible for *Christians* to pursue and overtake those Indians in



the woods, they being reputed to be swifter than any other nations."

The arrival of the five sachems in England made a great bruit throughout the whole kingdom. The mob followed wherever they went, and small cuts of them were sold among the people. The court was at that time in mourning for the death of the prince of Denmark: these American kings\* were therefore dressed in black under cloths after the English manner; but, instead of a blanket, they had each a scarlet in-grain cloth mantle, edged with gold, thrown over all their other garments. This dress was directed by the dressers of the playhouse, and given by the queen, who was advised to make a show of them. A more than ordinary solemnity attended the audience they had of her majesty. Sir Charles Cotterel conducted them in two coaches to St. James', and the lord chamberlain introduced them into the royal presence. Their speech, on the 19th of April, 1710, is preserved by Oldmixon, and was in these words:—

"Great Queen,

"We have undertaken a long voyage, which none of our predecessors could be prevailed upon to undertake, to see our great queen, and relate to her those things which we thought absolutely necessary for the good of her, and us her allies, on the other side the water.

"We doubt not but our great queen has been acquainted with our long and tedious war, in conjunction with her children, against her enemies the

\* This title is commonly bestowed on the sachems, though the Indians have no such dignity or office amongst them.

French ; and that we have been as a strong wall for their security, even to the loss of our best men. We were mightily rejoiced w. we heard our great queen had resolved to send an army to reduce Canada, and immediately, in token of friendship, we hung up the kettle and took up the hatchet, and with one consent assisted colonel Nicholson in making preparations on this side the lake ; but at length we were told our great queen, by some important affairs, was prevented in her design at present, which made us sorrowful, lest the French, who had hitherto dreaded us, should now think us unable to make war against them. The reduction of Canada is of great weight to our free hunting, so that if our great queen should not be mindful of us, we must, with our families, forsake our country and seek other habitations. or stand neuter, either of which will be much against our inclinations.

“In token of the sincerity of these nations, we do in their names, present our great queen with these belts of wampum, and in hopes of our great queen’s favour, leave it to her most gracious consideration.”

While colonel Schuyler was at the British court, captain Ingoldsby was displaced, and Gerardus Beekman exercised the powers of government, from the 10th of April, 1710, till the arrival of brigadier Hunter, on the 14th of June following. The council then present were,

MR. BEEKMAN,	MR. MOMPESSEON,
MR. VAN DAM,	MR. BARBARIE,
COLONEL BENSLAER,	MR. PHILIPSE,

Hunter was a native of Scotland, and, when a boy, put apprentice to an apothecary. He left his

master and went into the army; and being a man of wit and personal beauty, recommended himself to lady Hay, whom he afterwards married. In the year 1707, he was appointed lieutenant-governor of Virginia, but being taken by the French in his voyage to that colony, he was carried into France, and upon his return to England, appointed to succeed lord Lovelace in the government of this and the province of New-Jersey. Dean Swift's letter to him during his captivity, shows that he had the honour of an intimacy with Mr. Addison and others, who were distinguished for their good sense and learning; and perhaps it was by their interest he was advanced to this profitable place.

Governor Hunter brought over with him near three thousand Palatines, who the year before fled to England from the rage of persecution in Germany. Many of these people seated themselves in the city of New-York, where they built a Lutheran church, which is now in a declining condition. Others settled on a tract of several thousand acres, in the manor of Livingston. Their village there, called the Camp, is one of the pleasantest situations on Hudson's river; right opposite, on the west bank are many other families of them. Some went into Pennsylvania, and by the favourable accounts of the country, which they transmitted to Germany, were instrumental to the transmigration of many thousands of their countrymen into that province. Queen Anne's liberality to these people was not more beneficial to them than serviceable to this colony. They have behaved themselves peaceably, and lived with great industry. Many are rich; all are pro-

testants, and well affected to the government. The same must be said of those who have lately settled amongst us, and planted the lands westward of Albany. We have not the least ground for jealousy with respect to them. Amongst us they are few in number, compared to those in Pennsylvania: there they are too numerous to be soon assimilated to a new constitution. They retain all the manners and principles which prevail in their native country; and as many of them are papists, some are not without their fears that sooner or later they will become dangerous to our colonies.\*

The late attempt to attack Canada proving abortive, exposed us to consequences equally calamitous, dreaded, and foreseen. While the preparations were making to invade it, the French exerted themselves in cajoling their Indian allies to assist in the repulse; and as soon as the scheme dropped, numerous parties were sent out to harass the English frontiers. These irruptions were principally made on the northern parts of New-England, where the most savage cruelties were daily committed. New-York had, indeed, hitherto escaped, being covered by the Indians of the Five Nations; but the danger we were in induced governor Hunter, soon after his arrival, to make a voyage to Albany, where he met the confederate chiefs and renewed the old covenant.

\* The surprising importation of Germans into that colony, gave rise to the scheme of dispersing English clergymen and schoolmasters amongst them. The project is founded on principles of sound polity. If a political mission among the Indians had been seasonably encouraged, the province of Pennsylvania might have escaped all that shocking devastation, which followed the fatal defeat of general Braddock's army on the 9th of July, 1755; and would perhaps, have prevented even the erection of fort Quesne, which has already cost the nation so much blood and treasure.

While there, he was strongly solicited by the New-England governments, to engage our Indians in a war with those who were daily ravaging their borders, but he prudently declined a measure which might have exposed his own province to a general devastation. A treaty of neutrality subsisted at that time between the confederates and the Canada French and their Indians, which depending upon the faith of lawless savages, was at best but precarious, and yet the only security we had for the peace of our borders. A rupture between them would have involved us in a scene of misery at a time of all others most unseasonable. However the people of New-England might censure the governor it was a proof of his wisdom to refuse their request; for besides a want of men and arms to defend us, our forts were fallen down and our treasury exhausted.

The new assembly met at New-York, on the 1st of September. Mr. Nicoll, the speaker, Mr. Livingston, Mr. De Lancey, and colonel Morris, were the members most distinguished for their activity in the house. Mr. De Lancey was a protestant refugee, a native of Caen, in Normandy, and, by marrying a daughter of Mr. Courtlandt, connected with a family then perhaps the most opulent and extensive of any in the province. He was an eminent merchant, and by a successful trade had amassed a very considerable fortune. But of all these, colonel Morris had the greatest influence on our public affairs. He was a man of letters, and though a little whimsical in his temper, was grave in his manners and of penetrating parts. Being excessively fond of the society of men of sense and reading, he was never

wearied at a sitting till the spirits of the whole company were dissipated. From his infancy he had lived in a manner best adapted to teach him the nature of man, and to fortify his mind for the vicissitudes of life. He very early lost both his father and mother, and fell under the patronage of his uncle, formerly an officer of very considerable rank in Cromwell's army, who after the restoration disguised himself under the profession of quakerism, and settled on a fine farm within a few miles of the city, called, after his own name, Morrisania. Being a boy of strong passions, the general indications of a fruitful genius, he gave frequent offence to his uncle, and, on one of these occasions, through fear of his resentment, strolled away into Virginia, and thence to Jamaica in the West Indies,\* where, to support himself, he set up for a scrivener. After several years spent in this vagabond life he returned again to his uncle, who received the young prodigal with joy; and, to reduce him to regularity, brought about his marriage with a daughter of Mr. Graham, a fine lady, with whom he lived above fifty years, in the possession of every enjoyment which good sense and polite manners in a woman could afford. The greatest part of his life, before the arrival of Mr. Hunter, was spent in New-Jersey,† where he

\* He was one of the council in that province, and a judge of the supreme court there, in 1692. Upon the surrender of the government to queen Anne, in 1702, he was named to be governor of the colony; but the appointment was changed in favour of lord Cornbury, the queen's cousin.

† Hugh Coppathwait, a quaker zealot, was his preceptor: the pupil taking advantage of his enthusiasm, hid himself in a tree, and calling to him, ordered him to preach the gospel among the Mohawks. The credulous quaker took it for a miraculous call, and was upon the point of setting out when the cheat was discovered.

signalized himself in the service both of the proprietors and the assembly. The latter employed him to draw up their complaint against my lord Cornbury, and he was made the bearer of it to the queen. Though he was indolent in the management of his private affairs, yet through the love of power he was always busy in matters of a political nature, and no man in the colony equalled him in the knowledge of the law and the arts of intrigue. From this character, the reader will easily perceive that governor Hunter showed his prudence in taking Mr. Morris into his confidence, his talents and advantages rendering him either a useful friend or formidable foe. Such were the acting members of this assembly. When brigadier Hunter spoke to them, he recommended the settling a revenue, the defence of the frontiers, and the restoration of the public credit, which Lord Cornbury had almost entirely destroyed. To stifle the remaining sparks of our ancient feuds, he concluded with these words: "If any go about to disturb your peace by reviving buried parties or piques, or creating new ones, they shall meet with no countenance or encouragement from me; and I am sure they deserve as little from you." The address of the house was perfectly agreeable to the governor. They promised to provide for the support of government, and to restore the public credit, as well as to protect the frontiers. In answer to the close of his speech, they declare their hope, "That such as excited party contentions might meet with as little credit, and as much disgrace, as they deserve."

This unanimity, however, was soon interrupted: Colonel Morris, for some warm words dropped in a

debate, was expelled the house; and soon after a dispute arose between the council and assembly, concerning some amendments made by the former to a bill "For the treasurer's paying sundry sums of money." The design of it in mentioning the particular sums, and rendering them issuable by their own officer, was to restrain the governor from repeating the misapplications which had been so frequent in a late administration. The council for that reason opposed it, and adhered to their amendments; which occasioned a prorogation, on the 25th of November, after the passing of several other necessary laws.

Mr. Hunter cautiously avoided entering publicly into the dispute between the two houses, till he knew the sentiments of the ministry, and then he opened the spring session with a speech too singular not to be inserted:

"Gentlemen: I hope you are now come with a disposition to answer the ends of your meeting, that is, to provide a suitable support for her majesty's government here, in the manner she has been pleased to direct; to find out means to restore the public credit, and to provide better for your own security.

"They abuse you, who tell you that you are hardly dealt by in the augmentation of salaries. Her majesty's instructions which I communicated to you at our last meeting, might have convinced you that it was her tenderness towards her subjects in the plantations, who suffered under an established custom of making considerable presents to their governors, by acts of assembly, that induced her to allot to each



of them such a salary as she judged sufficient for their support in their respective stations, with a strict prohibition of all such presents for the future; which instruction has met with a cheerful and grateful compliance in all the other colonies.

"If you have been in any thing distinguished, it is by an extraordinary measure of her royal bounty and care. I hope you will make suitable returns, lest some insinuations much repeated of late years, should gain credit at last, that however your resentment has fallen upon the governor, it is the government you dislike.

"It is necessary at this time that you be told also, that giving money for the support of government, and disposing of it at your pleasure, is the same with giving none at all. Her majesty is the sole judge of the merits of her servants. This right has never yet been disputed at home, and should I consent to give it up abroad, I should render myself unworthy, not only of the trust reposed in me, but of the society of my fellow-subjects, by incurring her highest displeasure. If I have tired you by a long speech, I shall make amends by putting you to the trouble of a very short answer.

"Will you support her majesty's government in the manner she has been pleased to direct, or are you resolved that burden shall lie still upon the governor, who cannot accuse himself of any thing that may have deserved this treatment at your hands?

"Will you take care of the debts of the government, or, to increase my sufferings, must I continue under the torture of the daily cries of such as have

just demands upon you, and are in misery, without the power of giving them any hopes or relief?

“Will you take more effectual care of your own safety, in that of your frontiers, or are you resolved for the future to rely upon the security of an open winter, and the caprice of your savage neighbours? I shall be very sorry if this plainness offends you. I judge it necessary towards the establishing and cultivating a good understanding betwixt us; I hope it will be so construed, and wish heartily it may have that effect.”

Perplexed with this remarkable speech, the assembly, after a few days, concluded, that as his excellency had prorogued them in February, while he was at Burlington, in the province of New-Jersey, they could not sit and act as a house; upon which, they were the same day dissolved.

The five Indian kings, carried to England by colonel Schuyler, having seen all the curiosities in London, and been much entertained by many persons of distinction, returned to Boston with commodore Martin and colonel Nicholson; the latter of whom commanded the forces designed against Port-Royal and the coast of Nova-Scotia. In this enterprise the New-England colonies, agreeable to their wonted courage and loyalty, lent their assistance; and the reduction of the garrison, which was then called Annapolis-Royal, was happily completed on the 2d of October, 1710. Animated by this, and some other successes in Newfoundland, Nicholson again urged the prosecution of the scheme for the reduction of Canada; which having been strongly recommended by the Indian chiefs, as the only

effectual means to secure the northern colonies, was now again resumed.

Towards the execution of this project, five thousand troops from England and Flanders were sent over, under the command of brigadier Hill, the brother of Mrs. Masham, the queen's new confidant on the disgrace of the dutchess of Marlborough.

The fleet of transports under the convoy of sir Hoveden Walker arrived, after a month's passage, at Boston, on the 4th of June, 1711. The provisions with which they expected to be supplied there being not collected, the troops landed. Nicholson, who was to command the land forces, came immediately to New-York, where Mr. Hunter convened the assembly on the 2d of July: The re-election of the same members who had served in the last, was a sufficient proof of the general aversion to the establishment of a revenue. Robert Livingston, junior, who married the only daughter of colonel Schuyler, came in for Albany; and together with Mr. Morris, who was again chosen for the borough of West-Chester, joined the governor's interest. Brigadier Hunter informed the assembly of the intended expedition, and the arrival of the fleet and forces; that the quota of this province settled by the council of war at New-London, was six hundred private sentinels and their officers; besides which he recommended their making provision for building batteaus, transporting the troops and provisions, subsisting the Indians, and for the contingent charges: nor did he forget to mention the support of government and the public debts.

The house was so well pleased with the design

upon Canada, that they voted an address of thanks to the queen, and sent a committee to Nicholson, to congratulate his arrival, and to make honourable acknowledgment of his "sedulous application to her majesty for reducing Canada." In a few days time, an act was passed for raising forces; and the assembly, by a resolution, according to the governor's advice, restricted the price of provisions to certain particular sums. Bills of credit for forwarding the expedition were now also struck, to the amount of £10,000, to be sunk in five years by a tax on estates, real and personal. After these supplies were granted the governor prorogued the assembly; though nothing was done relating to the ordinary support of government.

While these preparations were making at New-York, the fleet, consisting of twelve men of war, forty transports, and six store ships, with forty horses, a fine train of artillery and all manner of warlike stores, sailed for Canada from Boston, on the 30th of July; and about a month afterwards, Nicholson appeared at Albany, at the head of an army of four thousand men, raised in this and the colonies of New-Jersey and Connecticut: the several regiments being commanded by colonel Ingoldsby, colonel Whiting, and colonel Schuyler, the latter of whom procured six hundred of the Five Nations to join our army.

The French in Canada were not unapprised of these designs. Vaudreuil, the governor-general, sent his orders from Montreal to the sieur De Beaucourt, to hasten the works he was about at Quebec, and commanded that all the regulars and militia should

be held in readiness to march on the first warning. Four or five hundred Indians, of the more distant nations, arrived at the same time at Montreal, with Messieurs St. Pierre and Tonti, who, together with the Caghnuage proselytes, took up the hatchet in favour of the French. Vaudreuil, after despatching several Indians and two missionaries among the Five Nations, to detach them from our interest, went to Quebec, which Beaucourt the engineer had sufficiently fortified to sustain a long siege. All the principal posts below the city, on both sides of the river, were prepared to receive the British troops in case of their landing. On the 14th of August, Sir Hoveden Walker arrived with the fleet in the mouth of St. Lawrence river; and fearing to lose the company of the transports, the wind blowing fresh at north-west, he put into Gaspey Bay, and continued there till the 20th of the same month. Two days after he sailed from thence, the fleet was in the utmost danger, for they had no soundings, were without sight of land, the wind high at east south-east, and the sky darkened by a thick fog. In these circumstances, the fleet brought to by the advice of the pilots, who were of opinion that if the ships lay with their heads to the southward, they might be driven by the stream into the midst of the channel; but instead of that, in two hours after, they found themselves on the north shore, among rocks and islands, and upon the point of being lost. The men of war escaped, but eight transports, containing eight hundred souls, officers, soldiers, and seamen, were cast away. Two or three days being spent in recovering what they could from the shore,

it was determined at a consultation of sea officers, to return to some bay or harbour, till a further resolution could be taken. On the 14th of September they arrived at Spanish-River bay, where a council of war, consisting of land and sea officers, considering that they had but ten weeks' provision, and judging that they could not depend upon a supply from New England, unanimously concluded to return home, without making any further attempts; and they accordingly arrived at Portsmouth on the 9th of October, when, in addition to our misfortunes the *Edgar*, a 70 gun ship, was blown up, having on board above four hundred men, besides many persons who came to visit their friends.

As soon as the Marquis De Vaudreuil, by the accounts of the fishermen and two other ships, had reason to suspect that our fleet was returned, he went to Chambly, and formed a camp of 3000 men to oppose Nicholson's army, intended to penetrate Canada at that end. But he was soon informed that our troops were returned, upon the news of the disaster which had befallen the fleet, and that the people of Albany were in the utmost consternation.

The new ministry are generally censured for their conduct in this expedition by the whigs, who condemn both the project and the measures taken towards its execution. The scheme was never laid before the parliament, though it was then sitting; but this, it is said, was for the greater secrecy; and for the same reason, the fleet was not fully victualled at home. They relied upon New-England for supplies, and this destroyed the design; for the ships

tarried at Boston till the season for the attack was over.

According to lord Harley's account of this expedition, the whole was a contrivance of Bolingbroke, Moore, and the lord chancellor Harcourt, to cheat the public of twenty thousand pounds. The latter of these was pleased to say "No government was worth serving, that would not admit of such advantageous jobs."

Apprehensive that the enemy would fall upon our borders, as they afterwards really did, in small parties, upon the miscarriage of that enterprise, governor Hunter pressed the assembly in autumn to continue a number of men in pay the ensuing winter, and to repair the out forts. After the house had passed several votes to this purpose, his excellency, during the session, went up to Albany, to withdraw the forces of the colony, and give orders for the necessary repairs.

The public debts, by this unfortunate expedition, were become greatly enhanced, and the assembly at last entered upon measures for the support of the government, and sent up to the council several bills for that purpose. The latter attempted to make amendments which the other would not admit, and a warm controversy arose between those two branches of the legislature. The council assigned instances that amendments had formerly been allowed; and besides this argument, drawn from precedent, insisted that they were a part of the legislature, constituted as the assembly were "by the mere grace of the crown;" adding that the lords of trade had determined the matter in their favour. The

house nevertheless adhered to their resolutions, and answered in these words:

"'Tis true, the share the council have (if any) in the legislation, does not flow from any title they have from the nature of that board, which is only to advise; or from their being another distinct state, or rank of people in the constitution, which they are not, being all commons; but only from the mere pleasure of the prince signified in the commission. On the contrary, the inherent right the assembly have to dispose of the money of the freemen of this colony, does not proceed from any commission, letters patent, or other grant from the crown; but from the free choice and election of the people, who ought not to be divested of their property (nor justly can) without their consent. Any former condescensions of other assemblies will not prescribe to the council a privilege to make any of those amendments; and therefore they have it not. If the lords commissioners for trade and plantations did conceive no reasons why the council should not have a right to amend money bills, this is far from concluding there are none. The assembly understand them very well, and are sufficiently convinced of the necessity they are in, not to admit of any encroachment so much to their prejudice."

Both houses adhered obstinately to their respective opinions: in consequence of which, the public debts remained unpaid, though his excellency could not omit passing a bill for paying to himself 3750 ounces of plate.

Upon the return of the fleet, Dudley, Saltonstall, and Cranston, the governors of the eastern colonies



formed a design of engaging the Five Nations in a rupture with the French, and wrote on that head to Mr. Hunter ; who, suspicious that his assembly would not approve of any project that might increase the public debts, laid their letter before the house, and, according to his expectations, they declared against the scheme.

About this time Mr. Hunter, by the advice of his council, began to exercise the office of chancellor, having, on the 4th of October, appointed Messrs. Van Dam and Philipse, masters ; Mr. Whileman, register ; Mr. Harrison, examiner ; and Messrs. Sharpas and Broughton, clerks. A proclamation was then issued, to signify the sitting of the court on Thursday in every week. This gave rise to these two resolutions of the house.

*"Resolved,* That the erecting a court of chancery without consent in general assembly, is contrary to law, without precedent, and of dangerous consequence to the liberty and property of the subjects.

*"That* the establishing fees, without consent in general assembly, is contrary to law." The council made these votes the subject of part of a long representation, which they shortly after transmitted to the lords of trade, who, in a letter to the governor, in answer to it, approved of his erecting a court of equity, and blamed the assembly ; adding, " That her majesty has an undoubted right of appointing such, and so many courts of judicature, in the plantations, as she shall think necessary for the distribution of justice."

At the next meeting, in May, 1712, colonel Hunter strongly recommended the public debts to the

consideration of the assembly, informing them, that the lords of trade had signified their opinion with respect to the amending money bills in favour of the council. The house neglected the matters laid before them, and the governor broke up the session by a short prorogation of three days. After which they soon passed an act for paying his excellency 8025 ounces of plate. Our public affairs never wore a more melancholy aspect than at this juncture.

Among the Five Nations many emissaries from the French were daily seducing them from the British interest, and our late ill success gave such a powerful influence to their solicitations, that the Indians even at Catskill sent a belt of wampum to those in Dutchess county; to prepare for a war. The Senecas and Shawanas were also greatly disaffected, and it was generally apprehended that they would fall upon the inhabitants along Hudson's river. An invasion was strongly suspected by sea on the city of New-York, where they had been alarmed in April by an insurrection of the negroes, who, in execution of a plot to set fire to the town, had burnt down a house in the night, and killed several people who came to extinguish the fire; for which nineteen of them were afterwards executed. But distressed as the colony then was, the assembly were inflexibly averse to the establishment of a revenue, which had formerly been wickedly misapplied and exhausted. At the ensuing session, in the fall, colonel Hunter proposed a scheme to the assembly, which was, in substance, that the receiver-general should give security, residing in the colony, for

the due execution of his office; and, every quarter, account to the governor and council for the sums he might receive. That the creditors of the government should, every three months, deliver in their demands to the governor and council; when, if that quarter's revenue equalled the amount of such debts, the governor, by the advice of council, should draw for it; but if the revenue for that quarter should fall short of the governor's demands, then the warrants were to be drawn for so much only as remained, and the creditors should afterwards receive new drafts for their balances in the next quarter. That no warrant should be issued until the quarterly account of the revenue was given in; but that then they should be paid in course, and an action of debt be given against the receiver-general in case of refusal. That he should account also to the assembly when required, and permit all persons to have recourse to his books. The house turned a deaf ear to this plausible project, and displeased with a letter from the lords of trade, favouring the council's claim to amend money bills, they agreed upon an address to the queen, protesting their willingness to support her government, complaining of misapplications in the treasury, intimating their suspicions that they were misrepresented, and praying an instruction to the governor to give his consent to a law for supporting an agent to represent them at the court of Great Britain. Provoked by this conduct, and to put an end to the disputes subsisting between the two houses, his excellency dissolved the assembly.

Before the meeting of the next assembly, the

peace of Utrecht was concluded, on the 31st of March, 1713. A peace, in the judgment of many, dishonourable to Great Britain, and injurious to her allies. I shall only consider it with relation to our Indian affairs. The reader doubtless observed, that lord Bellomont, after the peace at Ryswick, contended with the governor of Canada, that the Five Nations ought to be considered as subjects of the British crown, and that the point was disputed even after the death of count Frontenac. It does not appear that any decision of that matter was made between the two crowns, till the treaty of Utrecht, the fifteenth article of which is in these words :

“The subjects of France inhabiting Canada, and others, shall hereafter give no hindrance or molestation to the five nations or cantons of Indians, subject to the dominion of Great Britain, nor to the other nations of America who are friends to the same. In like manner, the subjects of Great Britain shall behave themselves peaceably towards the Americans who are subjects or friends to France ; and on both sides they shall enjoy full liberty of going and coming on account of trade ; also the natives of these countries shall, with the same liberty, resort, as they please, to the British and French colonies, for promoting trade on one side and the other, without any molestation or hindrance, either on the part of the British subjects, or of the French. But it is to be exactly and distinctly settled by commissaries, who are, and who ought to be, accounted the subjects of Britain or of France.”

In consequence of this treaty, the British crown became entitled, at least for any claim that could

justly be interposed by the French, to the sovereignty over the country of the Five Nations, concerning the extent of which, as it never was adjusted by commissaries, it may not be improper to say a few words.

When the Dutch began the settlement of this country, all the Indians on Long-Island and the northern shore of the sound, on the banks of the Connecticut, Hudson, Delaware, and Susquehanna rivers, were in subjection to the Five Nations; and within the memory of persons now living, acknowledged it by the payment of an annual tribute.\* The French historians of Canada, both ancient and modern, agree that the more northern Indians were driven before the superior martial prowess of the confederates. The author of the book entitled "*Relation de ce qui s'est passé de plus remarquable aux Mission de Peres de la Compagnie de Jesus, en la nouvelle France,*" published with the privilege of the French king, at Paris, in 1661, writes with such singular simplicity, as obviates the least suspicion of those sinister views so remarkable in the late French histories. He informs us that all the northern Indians, as far as Hudson's Bay, were harassed by the Five Nations: "*Partout (says he, speaking in the name of the Missionaries) nous trouvons Iroquois, qui comme un phantome importun, nous obsede en tous lieux.*" In the account he gives of the travels of a father, in 1658, we are told that the banks of the upper lake were lined with the Algonquins, "*ou la crainte des Iroquois leur a fait cher-*

\* A little tribe settled at the Sugar Loaf mountain, in Orange county, to this day make a yearly payment of about £20 to the Mohawks.

cher un asyle." Writing of the Hurons, "*La nation la plus sedentaire et la plus propre pour les semences de la foy,*" he represents them as totally destroyed by the confederates. Charlevoix, whose history of New France is calculated to countenance the encroachments of the French, gives the following description of the territory of the confederates.

"The country of the Iroquois (says he) extends itself between the 41st and 44th degrees of north latitude, about 70 or 80 leagues from east to west, from the head of the river bearing for its name that of Richelieu and Sorel;\* that is, from lake St. Sacrament to Niagara, and a little above 40 leagues from north to south, or rather north-east and south-west, from the head of the Mowhawks' river to the river Ohio. Thus the last-mentioned river and Pennsylvania bound it on the south. On the west it has lake Ontario; and lake Erie on the north-west; St. Sacrament and the river St. Lawrence on the north; on the south and south-east, the province of New-York. It is watered with many rivers. The land is in some places broken, but generally speaking, very fertile."

In this partial description, the jesuit is neither consistent with his geographer or several other French authors; and yet both his history and Mr. Bellin's maps, in 1744,† which are bound up with it, furnish

\* The river issuing from lake Champlain, is called *Rivieres des Iroquois de Richelieu and Sorel*, but the last is now most commonly used.

† Mr. Bellin published a new set of maps in 1745, the first plate being thought too favourable to our claims, especially in the protraction of the north side of the bay of Fundy, for Nova-Scotia, which, in the second plate, was called "the south part of New France." General Shirley, one of the British commissaries for settling the disputed limits, took occasion to speak of this alteration to Mr. Bellin at Paris, and informed him that 100 copies of his first maps were dispersed in London, upon which he discovered some surprise; but instead

many strong evidences in favor of the British claims. I will point out a few instances. The ancient country of the Hurons is laid down on the north side of lake Erie, by which we are ascertained of the extent of territory to which the Five Nations are entitled by their conquest of that people. The right of the confederates to the south side of that lake, is also established by their dispersion of the Cat Indians, to whom it originally belonged. The land, on both sides of the lake Ontario, is admitted to be theirs by this geographer, who writes on the north, "*Les Iroquois du Nord*," and on the south side, "*Pays des Iroquois*." Hennepin, La Hontan, and Delisle, all concur with Bellin in extending the right of the Five Nations to the lands on the north side of lake Ontario. The first of these, besides what appears from his map, speaking of that lake, has the words, "There are likewise on the north side of ~~these~~ Iroquois villages, Tejajahon, Kente, and Ganneousse," every one of which is laid down even in Bellin's, and almost all the maps I have seen of that country, whether French or English. What renders Hennepin's account the more remarkable is, that these villages were there in 1679, seven years after the erection of fort Frontenac. From whence it may fairly be argued, that their not opposing those works, was by no means a cession of the country to the

of urging any thing in support of the variation in his new draft, said, smiling, "we in France must follow the command of the monarch." I mention this to show, that since the French government interposes in the construction of their maps, they are proper evidence against them. Among the English, Dr. Mitchel's is the only authentic one extant. None of the rest, concerning America, have passed under the examination, or received the sanction of any public board; and, for this reason, they ought not to be construed to our prejudice. Add, that they generally copy from the French.

French; and indeed Charlevoix himself represents that matter as carried on by a fraud, for, says he, "Under pretext of seeking their advantage, the governor had nothing in view, *que de les tenir en bride.*"

To these attestations, which are the more to be depended upon, because they are given by the French writers, whose partiality leads them to confine the Five Nations to contracted limits,\* we may add, that our Indians universally concur in the claim of all the lands not sold to the English, from the mouth of Sorel river, on the south side of the lakes Erie and Ontario, on both sides of the Ohio, till it falls into the Mississippi; and on the north side of those lakes, that whole territory between the Outawais river and the lake Huron, and even beyond the straits between that and lake Erie. This last tract, and the land on the north side of the lakes Erie and Ontario, were contained in their surrender to king William, in 1701, of which I took notice in its proper place: and, doubtless, to that and lord Bellomont's contest with count Frontenac, we must ascribe it, that the Five Nations were afterwards so particularly taken notice of in the treaty of Utrecht.

The British title to fort Frontenac, and the lands on the north-west side of Cadaraqui river, has of late been drawn into question by some, who from jealousy, or other motives equally shameful, were

\* Mr. Bellin was engineer of the marine, and tells us, that Charlevoix performed his travels in this country, by order of the French court; that he was a man of attention and curiosity, and had a determined resolution to collect all possible intelligence, which he designed to make public. To give the greater credit to the jesuit's history and his own map, he adds, that Charlevoix was never without the instruments proper for a voyager, "*partout la boussole à la main.*"



bent upon finding fault with every measure planned by general Shirley. The advocates for the French claim relied much on a late map of the middle British colonies, and two pamphlets published by Lewis Evans.

"The French, says he, being in possession of fort Frontenac at the peace of Ryswick, which they attained during their war with the confederates, gives them an undoubted title to the acquisition of the north-west side of St. Lawrence river, from thence to their settlement at Montreal." The writer adds, "It was upon the faith and honour of king William's promise (by the fourth article of the treaty of Ryswick) of not disturbing the French king in the free possession of the kingdoms, countries, lands, or dominions he then enjoyed, that I said the French had an undoubted title to their acquisition of the north-west side of St. Lawrence river, from Frontenac to Montreal."

Whether the treaty ought to be considered as having any relation to this matter, is a question which I shall not take upon me to determine. The map-maker supposes it to be applicable, and for the present I grant it. The twelfth article of this treaty is in these words:—"The most christian king shall restore to the king of Great Britain all countries, islands, forts, and colonies, wheresoever situated, which the English did possess before the declaration of the present war. And in like manner the king of Great Britain shall restore to the most christian king, all countries, islands, forts, and colonies, wheresoever situated, which the French did possess before the said declaration of war." If

therefore the British subjects were in possession of fort Frontenac at the commencement of the war, the French, who attained it during its continuance, according to this treaty, ought to have surrendered it to the British crown.

Whatever the French title to fort Frontenac might have been antecedent to the year 1688, in which the island of Montreal was invaded by the Five Nations, it is certain that it was then abandoned, and that the Indians entered it, and demolished a great part of the works.\* But the author of the map affirms, "that the *English* did *not* possess fort Frontenac before the declaration of war terminated by the peace of Ryswick." To which I reply, that the Indians acquired a title in 1688, either by conquest or dereliction, or both; and that the crown of Great Britain had a right to take advantage of their acquisition, in virtue of its sovereignty over the Five Cantons. That they were our dependents, was strongly and often insisted upon by governor Dongan and lord Bellomont, and the point remained *sub judice* till the treaty of Utrecht. Then a decision was solemnly made in our favour, which looks back, as the determination of all disputes do, at least as far as the first rise of the controversy; posterior to which, and prior to king William's war, his Indian subjects obtained the possession of the fort in question.† Whence I think it may be fairly deduced, if we take the treaty of Ryswick for our rule, that fort Frontenac, which was regained by the French during

\* Le fort de Cataracouy étoit évacué et ruiné.—*Charlevoix*.

† The Five Nations entered the fort in 1688, and the war against France was not proclaimed till May, 1689.

their war with us, ought to have been surrendered to the British crown. Every public transaction between the French and the Five Nations, without the participation of the government of Great Britain, since the Indians were claimed as our dependents, is perhaps absolutely void, and particularly the treaty of peace made between the Indians and the chevalier De Callieres after the death of count Frontenac.\*

The possession of any part of the country of the Five Nations by the French, either before or since the close of queen Anne's war, cannot prejudice the British title, because the treaty of Aix la Chapelle renews and confirms that executed at Utrecht in 1713, and expressly stipulates, that the dominions of the contracting parties shall be in the same condition "which they ought of right to have been in before the late war." Commissaries were soon after appointed to adjust the controverted limits, who accordingly met at Paris, and continued the negotia-

\* Evans's map and first pamphlet, or analysis, were published in the summer 1755, and that part in favour of the French claim to Frontenac was attacked by two papers in the New-York Mercury, in January, 1756. This occasioned his publication of the second pamphlet the next spring, in which he endeavours to support his map. He was a man in low circumstances, in his temper precipitate, of violent passions, great vanity, and rude manners. He pretended to the knowledge of every thing, and yet had very little learning. By his inquisitive turn, he filled his head with a considerable collection of materials, and a person of more judgment than he had, might, for a few days, receive advantages from his conversation. He piqued himself much upon his two maps, which are however, justly chargeable with many errors. His ignorance of language is evident, both in them and the two pamphlets of his analysis, the last of which is stuffed with groundless aspersions on general Shirley, who deserves so well from these colonies, that on that account, and to weaken the authority of a map prejudicial to his majesty's rights, I beg the reader's excuse for this infraction of the old rule, *de mortuis nil nisi bonum*. He died at New-York, June 12, 1756, under an arrest for a gross slander, uttered against Mr. Morris, the governor of Pennsylvania.

tion till the French king perfidiously seized upon several parts of Nova-Scotia, or Acadia, the settlement of the bounds of which was part of the very business of the commissaries. This gave rise to the present operations, and the longest sword will determine the controversy.

Brigadier Hunter was disappointed in his expectations upon the late dissolution, for though the elections were very hot, and several new members came in, yet the majority were in the interest of the late assembly, and on the 27th of May, 1713, chose Mr. Nicoll into the chair. The governor spoke to them with great plainness, informing them that it would be in vain to endeavour to lodge the money allotted for the support of government, in any other than the hands of the queen's officers. "Nevertheless, (says he) if you are so resolved, you may put the country to the expense of a treasurer, for the custody of money raised for extraordinary uses." He added, that he was resolved to pass no law till provision was made for the government. The members were therefore reduced to the dilemma of passing a bill for that purpose, or breaking up immediately. They chose the former, and the governor gave his assent to that and an excise bill on strong liquors, which continues to this day, producing into the treasury about one thousand pounds per annum. After a short recess, several other laws were enacted in the fall; but the debts of the government still remained unnoticed, till the summer of the year 1714. A long session was then almost entirely devoted to that single affair. Incredible were the numbers of the public creditors; new demands were every day

made. Petitions came in from all quarters, and even for debts contracted before the revolution. Their amount was nearly twenty-eight thousand pounds. To pay this prodigious sum, recourse was had to the circulation of bills of credit to that value. These were lodged in the hands of the province treasurer, and issued by him only, according to the directions of the act.

The news of the queen's death arriving in the ensuing fall, a dissolution ensued of course; and a new house met in May, 1715, which continued only to the 21st of July; for the governor being now determined to subdue those whom he could not allure, again dissolved the assembly. He succeeded in his design, for though Mr. Nicoll was re-elected into the chair on the 9th of June, 1716, yet we plainly perceive by the harmony introduced between the several branches of the legislature, that the majority of the house were now in the interest of the governor.

An incontestible evidence of their good understanding appeared at the session in autumn, 1717, when the governor informed them of a memorial which had been sent home, reflecting upon his administration. The house immediately voted an address to him, which was conceived in terms of the utmost respect, testifying their abhorrence of the memorial as a false and malicious libel. It was supposed to be written by Mulford, a representative for Suffolk county, who always opposed the measures that were taken to preserve the friendship of the Five Nations, and foolishly projected a scheme to cut them off. It was printed in England, and

delivered to the members at the door of the house of commons, but never had the author's intended effect.

It was at this meeting the council, on the 31st of October, sent a message by Mr. Alexander, then deputy secretary, to the house, desiring them "to appoint proper persons for running the division line between this colony and the province of New-Jersey, his excellency being assured the legislature of the province of New-Jersey will bear half the expense thereof." The assembly had a bill before them, at that time, which afterwards passed into a law, for the payment of the remaining debts of the government, amounting to many thousand pounds; in which, after a recital of the general reasons for ascertaining the limits between New-York and New-Jersey on the one side, and Connecticut on the other, a clause was added to defray the expense of those services. Seven hundred and fifty ounces of plate were enacted "to be issued by warrant, under the hand and seal of the governor of this province for the time being, by and with the advice and consent of his majesty's council, in such parts and portions as shall be requisite for that service, when the survey, ascertaining, and running the said line, limit, and boundary, shall be begun, and carried on, by the mutual consent and agreement of his excellency and council of this province, and the proprietors of the soil of the said province of New-Jersey." According to this law, the line "agreed on by the surveyors and commissioners of each colony was to be conclusive." Another sum was also provided by the same clause, for running the line between New-

York and Connecticut; and in the year 1719, an act was passed for the settlement of that limit, of which I shall have occasion to take notice in a succeeding administration.

Whether it was because Mr. Nicoll was disgusted with the governor's prevailing interest in the house, or owing to his infirm state of health, that he desired, by a letter to the general assembly, on the 18th of May, 1718, to be discharged from the speaker's place, is uncertain. His request was readily granted, and Robert Livingston, esq. chosen in his stead. The concord between the governor and this assembly was now wound up to its highest pitch. Instead of other evidences of it, I shall lay before the reader his last speech to the house on the 24th of June, 1719, and their address in answer to it.

"Gentlemen, I have now sent for you, that you may be witnesses to my assent to the acts passed by the general assembly in this session. I hope that what remains unfinished, may be perfected by to-morrow, when I intend to put a close to this session.

"I take this opportunity also to acquaint you, that my late uncertain state of health, the care of my little family, and my private affairs on the other side, have at last determined me to make use of that license of absence, which has been some time ago so graciously granted me, but with a firm resolution to return to you again, if it is his majesty's pleasure that I should do so: but if that proves otherwise, I assure you that whilst I live, I shall be watchful and industrious to promote the interest and welfare of this country, of which I think I am under

the strongest obligations, for the future, to account myself a countryman.

"I look with pleasure on the present quiet and flourishing state of the people here, whilst I reflect on that in which I found them at my arrival. As the very name of party or faction seems to be forgotten, may it forever lie buried in oblivion, and no strife ever happen amongst you, but that laudable emulation who shall approve himself the most zealous servant and most dutiful subject of the best of princes, and most useful member of a well established and flourishing community, of which you, gentlemen, have given a happy example, which I hope will be followed by future assemblies. I mention it to your honour, and without ingratitude and breach of duty I could do no less."

Colonel Morris and the new speaker were the authors of the answer to this speech, though it was signed by all the members. Whether Mr. Hunter deserved the eulogium they bestowed upon him, I leave the reader to determine. It is certain that few plantation governors have the honour to carry home with them such a testimonial as this :

"Sir :

"When we reflect upon your past conduct, your just, mild, and tender administration, it heightens the concern we have for your departure, and makes our grief such as words cannot truly express. You have governed well and wisely, like a prudent magistrate, like an affectionate parent ; and wherever you go, and whatever station the divine providence shall please to assign you, our sincere desires



and prayers for the happiness of you and yours, shall always attend you.

"We have seen many governors, and may see more; and as none of those who had the honour to serve in your station, were ever so justly fixed in the affections of the governed, so those to come will acquire no mean reputation, when it can be said of them, their conduct has been like yours.

"We thankfully accept the honour you do us, in calling yourself our countryman; give us leave then to desire that you will not forget this as your country, and, if you can, make haste to return to it.

"But if the service of our sovereign will not admit of what we so earnestly desire, and his commands deny us that happiness, permit us to address you as our friend, and give us your assistance, when we are oppressed with an administration the reverse of yours."

Colonel Hunter departing the province, the chief command devolved, the 31st of July, 1719, on Peter Schuyler, esq. then the eldest member of the board of council. As he had no interview with the assembly during his short administration, in which he behaved with great moderation and integrity, there is very little observable in his time, except a treaty at Albany with the Indians, for confirming the ancient league, and the transactions respecting the partition line between this and the colony of New-Jersey: concerning the latter of which I shall now lay before the reader a very summary account.

The two provinces were originally included in the grant of king Charles to the duke of York. New-Jersey was afterwards conveyed by the duke to lord

Berkley and sir George Carteret. This again, by a deed of partition, was divided into east and west Jersey, the former being released to sir George Carteret, and the latter to the assigns of lord Berkley. The line of division extended from Little Egg harbour to the north partition point on Delaware river, and thus both those tracts became concerned in the limits of the province of New-York. The original rights of lord Berkley and sir George Carteret, are vested in two different sets, consisting each of a great number of persons, known by the general name of the Proprietors of East and West Jersey, who, though they surrendered the powers of government to queen Anne in the year 1702, still retained their property in the soil. These were the persons interested against the claim of New-York. It is agreed on all sides, that the deed to New-Jersey is to be first satisfied out of that great tract granted to the duke, and that the remainder is the right of New-York. The proprietors insist upon extending their northern limits to a line drawn from the latitude of  $41^{\circ} 40'$  on Delaware, to the latitude of  $41^{\circ}$  on Hudson's river, and allege that before the year 1671, the latitude of  $41^{\circ}$  was reputed to be fourteen miles to the northward of Tappan creek, part of those lands being settled under New-Jersey till 1684.

They also contend that in 1684 or 1685, Dongan and Lawrie, (the former governor of New-York, and the latter of New-Jersey,) with their respective councils, agreed that the latitude on Hudson's river was at the mouth of Tappan creek, and that a line from thence to the latitude of  $41^{\circ} 40'$  on Delaware should be the boundary line. In 1686, Robinson,

Wells,\* and Keith, surveyors of the three several provinces, took two observations, and found the latitude of  $41^{\circ}$  to be  $1'$  and  $25''$  to the northward of the Yonker's mills, which is four miles and forty-five chains to the southward of the mouth of Tappan creek; but against these observations the proprietors offer sundry objections, which it is not my business to enumerate. It is not pretended by any of the litigants, that a line according to the stations settled by Dongan and Lawrie was actually run; so that the limits of these contending provinces must long have existed in the uncertain conjectures of the inhabitants of both; and yet the inconveniences of this unsettled state, through the infancy of the country, were very inconsiderable. In the year 1701, an act passed in New-York, relating to elections, which annexed Wagachemeck, and great and little Minisink, certain settlements near Delaware, to Ulster county. The intent of this law was to quiet disputes before subsisting between the inhabitants of those places, whose votes were required both in Orange and Ulster. The natural conclusion from hence is, that the legislature of New-York then deemed those plantations not included within the New-Jersey grant.

Such was the state of this affair till the year 1717, when provision was made by this province for running the line: the same being done in New-Jersey the succeeding year, commissions for that purpose, under the great seals of the respective colonies, were issued in May, 1719. The commissioners by inden-

\* The same who left the quakers, and took orders in the church of England.  
*Burnet's history of his own times.*

ture dated the 25th of July, fixed the north station point on the most northern branch of the Delaware, called the Fishkill; and from thence a random line was run to Hudson's river, terminating about five miles to the northward of the mouth of Tappan creek. In August the surveyors of East-Jersey met for fixing the station on Hudson's river. All the commissioners not attending through sickness, nothing further was done. What had already been transacted, however, gave a general alarm to many persons interested in several patents under New-York, who before imagined their rights extended to the southward of the random line. The New-York surveyor afterwards declined proceeding in the work, complaining of faults in the instrument which had been used in fixing the north station on Delaware. The proprietors, on the other hand, think they have answered his objections, and the matter rested, without much contention, till the year 1740. Frequent quarrels multiplying after that period, relating to the rights of soil and jurisdiction southward of the line in 1719, a probationary act was passed in New-Jersey, in February, 1748, for running the line *ex parte*, if the province of New-York refused to join in the work. Our assembly soon after directed their agent to oppose the king's confirmation of that act, and it was accordingly dropped, agreeable to the advice of the lords of trade, whose report of the 18th of July, 1753, on a matter of so much importance, will doubtless be acceptable to the reader.

"To the king's most excellent majesty :

"May it please your majesty: We have lately

had under our consideration an act passed in your majesty's province of New-Jersey, in 1747-8, entitled, "An act for running and ascertaining the line of partition and division betwixt this province of New-Jersey, and the province of New-York."

"And having been attended by Mr. Paris, solicitor in behalf of the proprietors of the eastern division of New-Jersey, with Mr. Hume Campbell and Mr. Henley, his counsel in support of the said act; and by Mr. Charles, agent for the province of New-York, with Mr. Forrester and Mr. Pratt, his counsel against the said act; and heard what each party had to offer thereupon; we beg leave humbly to represent to your majesty, that the considerations which arise upon this act are of two sorts, viz. such as relate to the principles upon which it is founded, and such as relate to the transactions and circumstances which accompany it.

"As to the first, it is an act of the province of New-Jersey, interested in the determination of the limits, and in the consequential advantages to arise from it.

"The province of New-Jersey, in its distinct and separate capacity, can neither make nor establish boundaries; it can as little prescribe regulations for deciding differences between itself and other parties concerned in interest.

"The established limits of its jurisdiction and territory, are such as the grants under which it claims have assigned. If those grants are doubtful, and differences arise upon the constructions, or upon the matters of them, we humbly apprehend that there are but two methods of deciding them—either by

the concurrence of all parties concerned in interest, or by the regular and legal forms of judicial proceedings : and it appears to us, that the method of proceeding must be derived from the immediate authority of the crown itself, signified by a commission from your majesty under the great seal : the commission of subordinate officers and of derivative powers, being neither competent nor adequate to such purposes: to judge otherwise would be, as we humbly conceive, to set up *ex parte* determinations and incompetent jurisdictions in the place of justice and legal authority.

“If the act of New-Jersey cannot include other parties, it cannot be effectual to the ends proposed; and that it would not be effectual to form an absolute decision in this case, the legislature of that province seems sensible, whilst it endeavors to leave to your majesty’s determination, the decision of one point relative to this matter, and of considerable importance to it; which power your majesty cannot derive from them, without their having the power to establish the thing itself, without the assistance of your majesty.

“As we are of opinion that the present act, without the concurrence of other parties concerned in interest, is unwarrantable and ineffectual, we shall in the next place consider what transactions and proceedings have passed towards obtaining such concurrence.

“The parties interested are your majesty and the two provinces of New-York and New-Jersey. Your majesty is interested with respect to your sovereignty, seigneurie, and property; and the said provinces with respect to their government and jurisdiction.

“With regard to the transactions on the part of New-York, we beg leave to observe, that whatever agreements have been made formerly between the two provinces for settling their boundaries; whatever acts of assembly have passed, and whatever commissions have been issued by the respective governors and governments; the proceedings under them have never been perfected, the work remains unfinished, and the disputes between the two provinces subsist with as much contradiction as ever; but there is a circumstance that appears to us to have still more weight, namely, that those transactions were never properly warranted on the part of the crown; the crown never participated in them, and therefore cannot be bound with respect to its interests by proceedings so authorized.

“The interest which your majesty has in the determination of this boundary, may be considered in three lights: either as interests of sovereignty, respecting mere government; of seigneurie, which respect escheats and quitrents; or of property, as relative to the soil itself; which last interest takes place in such cases, where either your majesty has never made any grants of the soil, or where such grants have by escheats reverted to your majesty.

“With regard to the first of these interests, viz. that of sovereignty, it has been alleged to us in support of the act, that it is not materially affected by the question, as both provinces are under your majesty’s immediate direction and government: but they stand in a very different light with respect to your majesty’s interest in the quitrents and escheats; in both which articles the situation of the two provinces appears to us to make a very material altera-

tion: for although the province of New-Jersey is not under regulations of propriety or charter with respect to its government, yet it is a proprietary province with respect to the grant and tenure of its territory, and consequently as New-York is not in that predicament, the determination of the boundary in prejudice to that province, will affect your majesty's interest with respect to the tenure of such lands as are concerned in this question: it being evident, that whatever districts are supposed to be included in the limits of New-Jersey, will immediately pass to the proprietors of that province, and be held of them, by which means your majesty would be deprived of your escheats, and the quitrents would pass into other hands.

"To obviate this objection, it has been alleged that the crown has already made absolute grants of the whole territory that can possibly come in question under the denomination of this boundary, and reserved only trifling and inconsiderable quitrents on those grants: but this argument does not seem to us to be conclusive, since it admits an interest in your majesty, the greatness or smallness of which is merely accidental; and therefore does not affect the essence of the question: and we beg leave to observe, that in the case of exorbitant grants with inconsiderable quitrents; and where consequently it may reasonably be supposed, that the crown has been deceived in such grants by its officers; your majesty's contingent right of property in virtue of your seigneurie, seems rather to be enlarged than diminished.

"This being the case, it appears to us that governor Hunter ought not to have issued his commis-



sion for running the line above mentioned, without having previously received the royal direction and instruction for that purpose; and that a commission issued without such authority, can be considered, with respect to the interests of the crown, in no other light than as a mere nullity: and even with respect to New-York, we observe that the said commission is questionable, as it does not follow the directions of the above-mentioned act, passed in 1717, which declares, that the commission to be issued, shall be granted under the joint authority of the governor and council of that province.

"But it has been further urged that the crown has since confirmed these transactions, either by previous declarations or by subsequent acquiescence, and consequently participated in them so far as to include itself: we shall therefore, in the next place, beg leave to consider the circumstances urged for this purpose.

"It has been alleged that the crown, by giving consent to the aforesaid act, passed in New-York in 1717, for paying and discharging several debts due from that colony, &c. concluded and bound itself with respect to the subsequent proceedings had under the commission issued by governor Hunter; but the view and purpose of that act appear to us so entire, and so distinctly formed for the purpose of raising money and establishing funds; so various and so distinct from any consideration of the disputes subsisting in the two provinces, with respect to the boundaries; that we cannot conceive a single clause in so long and so intricate an act, can be a sufficient foundation to warrant the proceedings of governor Hunter subsequent to it, without a special

authority from the crown for that purpose; and there is the more reason to be of this opinion, as the crown, by giving its assent to that act, can be construed to have assented only to the levying money for a future purpose; which purpose could not be effected by any commission but from itself; and, therefore, can never be supposed to have thereby approved a commission from another authority, which was at that time already issued, and carrying in execution, previous to such assent.

"We further beg leave humbly to represent to your majesty, that the line of partition and division between your majesty's province of New-York and colony of Connecticut, having been run and ascertained, pursuant to the directions of an act passed at New-York for that purpose, in the year 1719, and confirmed by his late majesty in 1723; the transactions between the said province and colony, upon that occasion, have been alleged to be similar to, and urged as a precedent, and even as an approbation of the matter now in question: but we are humbly of opinion that the two cases are materially and essentially different. The act passed in New-York, in 1719, for running and ascertaining the lines of partition and division between that colony and the colony of Connecticut, recites, that in the year 1683, the governor and council of New-York, and the governor and commissioners of Connecticut, did, in council, conclude an agreement concerning the boundaries of the two provinces; that, in consequence of this agreement, commissioners and surveyors were appointed on the part of each government, who did actually agree, determine, and ascertain, the lines of partition; marked out a certain

part of them, and fixed the point from whence the remaining part should be run: that the several things agreed on and done by the said commissioners were ratified by the respective governors; entered on record in each colony, in March 1700; approved and confirmed by order of king William, the third, in his privy council; and by his said majesty's letter to his governor of New-York. From this recital it appears to us, that those transactions were not only carried on with the participation, but confirmed by the express act and authority of the crown; and that confirmation made the foundation of the act passed by New-York, for settling the boundaries between the two provinces; of all which authority and foundation the act we now lay before your majesty appears to us to be entirely destitute.

"Upon the whole, as it appears to us that the act in question cannot be effectual to the ends proposed; that your majesty's interest may be materially affected by it, and that the proceedings on which it is founded were not warranted in the first instance by the proper authority, but carried on without the participation of the crown; we cannot think it advisable to lay this act before your majesty, as fit to receive your royal approbation.

"Which is most humbly submitted,  
"DUNK HALIFAX,  
"J. GRENVILLE,  
"JAMES OSWALD,  
"ANDREW STONE.

"Whitehall, July 18, 1753."

THE  
HISTORY OF NEW-YORK.

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PART V.

FROM THE YEAR 1720 TO THE COMMENCEMENT OF THE  
ADMINISTRATION OF COLONEL COSBY.

WILLIAM BURNET, esq. took upon him the government of this province, on the 17th of September, 1720. The council named in his instructions were

COL. SCHUYLER,	MR. BARBARIE,
COL. DEPEYSTER,	MR. PHILIPSE,
CAPT. WALTER,	MR. BYERLY,
COL. BEEKMAN,	MR. CLARKE,
MR. VAN DAM,	DR. JOHNSTON,
COL. HEATHCOTE,	MR. HARISON.

Mr. Burnet was a son of the celebrated bishop of that name, whose piety and erudition, but especially his zeal and activity for the glorious revolution and protestant succession, will embalm his memory to the most distant ages. The governor was a man of sense and polite breeding, a well read scholar, sprightly, and of a social disposition. Being devoted to his books, he abstained from all those excesses into which his pleasurable relish would otherwise have plunged him. He studied the arts of recommending himself to the people, had nothing of the

moroseness of a scholar, was gay and condescending, affected no pomp, but visited every family of reputation, and often diverted himself in free converse with the ladies, by whom he was very much admired. No governor before him, did so much business in chancery. The office of chancellor was his delight. He made a tolerable figure in the exercise of it, though he was no lawyer, and had a foible very unsuitable for a judge, I mean his resolving too speedily, for he used to say of himself, "I act first and think afterwards." He spoke however always sensibly, and by his great reading was able to make a literary parade.—As to his fortune it was very inconsiderable, for he suffered much in the South Sea scheme. While in England, he had the office of comptroller of the customs at London, which he resigned to brigadier Hunter, as the latter, in his favour, did the government of this and the colony of New-Jersey. Mr. Burnet's acquaintance with that gentleman gave him a fine opportunity, before his arrival, to obtain good intelligence both of persons and things. The brigadier recommended all his old friends to the favour of his successor, and hence we find that he made few changes amongst them.\* Mr. Morris, the chief justice, was his principal confidant: Dr. Colden and Mr. Alexander, two Scotch gentlemen, had the next place in his esteem. He showed his wisdom in that choice, for they were both men of learning, good morals, and solid parts. The former was well acquainted with

\* Colonel Schuyler and Mr. Philipse were, indeed, removed from the council board, by his representations; and their opposing, in council, the continuance of the assembly, after his arrival, was the cause of it.

the affairs of the province, and particularly those which concerned the French in Canada and our Indian allies. The latter was bred to the law, and, though no speaker, at the head of his profession for sagacity and penetration; and in application to business no man could surpass him. Nor was he unacquainted with the affairs of the public, having served in the secretary's office, the best school in the province for instruction in matters of government; because the secretary enjoys a plurality of offices, conversant with the first springs of our provincial economy. Both those gentlemen Mr. Burnet soon raised to the council board, as he also did Mr. Morris, jun. Mr. Van Horn, whose daughter he married, and Mr. Kennedy, who succeeded Byerly both at the council board, and in the office of receiver-general.

Of all our governors, none had such extensive and just views of our Indian affairs, and the dangerous neighborhood of the French, as governor Burnet, in which Mr. Livingston was his principal assistant. His attention to these matters appeared at the very commencement of his administration, for in his first speech to the assembly, the very fall after his arrival, he laboured to implant the same sentiments in the breasts of the members; endeavoring to alarm their fears by the daily advances of the French, their possessing the main passes, seducing our Indian allies, and increasing their new settlements in Louisiana.

Chief justice Morris, whose influence was very great in the house, drew the address in answer to the governor's speech, which contained a passage

manifesting the confidence they reposed in him. "We believe that the son of that worthy prelate, so eminently instrumental under our glorious monarch, William the third, in delivering us from arbitrary power, and its concomitants, popery, superstition, and slavery, has been educated in, and possesses, those principles that so justly recommended his father to the council and confidence of protestant princes, and succeeds our former governor, not only in power, but inclination to do us good."

From an assembly impressed with such favourable sentiments, his excellency had the highest reason to expect a submissive compliance with every thing recommended to their notice. The public business proceeded without suspicion or jealousy, and nothing intervened to disturb the tranquillity of the political state. Among the most remarkable acts passed at this session, we may reckon that for a five years' support; another for laying a duty of two per cent. prime cost, on the importation of European goods, which was soon after repealed by the king; and a third, for prohibiting the sale of Indian goods to the French. The last of these was a favorite act of the governor's; and though a law very advantageous to the province, became the source of an unreasonable opposition against him, which continued through his whole administration. From the conclusion of the peace of Utrecht, a great trade was carried on between Albany and Canada, for goods saleable among the Indians. The chiefs of the confederates wisely foresaw its ill consequences, and complained

of it to the commissioners of Indian affairs,\* who wrote to Mr. Hunter, acquainting him of their dissatisfaction. The letter was laid before the house, but no effectual step taken to prevent the mischief, till the passing of this act, which subjected the traders to a forfeiture of the effects sold, and the penalty of £100. Mr. Burnet's scheme was to draw the Indian trade into our own hands; to obstruct the communication of the French with our allies, which gave them frequent opportunities of seducing them from their fidelity; and to regain the Caghnuagas, who became interested in their disaffection, by being the carriers between Albany and Montreal. Among those who were more immediately prejudiced by this new regulation, the importers of those goods from Europe were the chief; and hence the spring of their opposition to the governor.

All possible arts were used, both here and at home, to preserve the good temper of the assembly. Brigadier Hunter gave the ministry such favorable

\* The governors residing at New-York, rendered it necessary that some persons should be commissioned at Albany, to receive intelligence from the Indians and treat with them upon emergencies. This gave rise to the office of commissioners of Indian affairs, who in general transact all such matters as might be done by the governor. They receive no salaries, but considerable sums are deposited in their hands for occasional presents. There are regular minutes of their transactions from the year 1675. These were in separate quires, till Mr. Alexander, who borrowed them for his perusal in 1751, had them bound up in four large volumes in folio. Here all our Indian treaties are entered. The books are kept by a secretary commissioned in England, whose appointment is an annual salary of 100*l*. proclamation out of the quit-rents. The commandant at Oswego is generally a commissioner. The office would probably have been more advantageous than it has been, if the commissioners were not traders themselves, than which nothing is more ignoble in the judgment of the Indians. Sir William Johnson is at present the sole commissioner, and within nine months after the arrival of general Braddock, received 10,000*l*. sterling, to secure the Indian interest.



accounts of the members; that colonel Schuyler, during his presidentship, had orders from Mr. secretary Craggs, neither to dissolve them himself, nor permit them to be dissolved; and at the spring session, in the year 1721, Mr. Burnet informed them that his continuance of them was highly approved at home. Horatio Walpole, the auditor-general, who had appointed Mr. Clarke for his deputy, thought this a favourable conjuncture for procuring five per cent. out of the treasury. But the house were averse to his application, and, on the 2d of June, Abraham Depeyster, jun. was appointed treasurer by the speaker's warrant, with the consent of the governor, in the room of his father, who was infirm; upon which he entered into a recognizance of £5000 to the king, before a judge of the supreme court, for the faithful execution of his trust, which was lodged in the secretary's office. The house, at the same time, in an address, declared their willingness that the treasurer should account; but utterly refused to admit of any drafts upon the treasury for the auditor-general, who was constrained to depend entirely upon the revenue, out of which he received about £200 per annum.

Mr. Burnet being well acquainted with the geography of the country, wisely concluded that it was to the last degree necessary to get the command of the great lake Ontario, as well for the benefit of the trade, and the security of the friendship of the Five Nations, as to frustrate the French designs, of confining the English colonies to narrow limits along the sea coast, by a chain of forts on the great passes from Canada to Louisiana. Towards the

subversion of this scheme, he began the erection of a trading house at Oswego, in the county of the Senecas, in 1722; and recommended a provision for the residence of trusty persons among them and the Onondagas, which last possess the centre of the Five Cantons. This year was remarkable for a congress of several governors and commissioners, on the renewal of the ancient friendship with the Indians at Albany. Mr. Burnet prevailed upon them to send a message, to threaten the eastern Indians with a war, unless they concluded a peace with the English, who were very much harassed by their frequent irruptions. On the 20th of May, in the year following, the confederates were augmented by their reception of above 80 Nicariagas, besides women and children, as they had been formerly by the addition of the Tuscaroras. The country of the Nicariagas was on the north side of Missilimakinack; but the Tuscaroras possessed a tract of land near the sources of James's river, in Virginia, from whence the encroachments of the English induced them to remove, and settle near the south-east end of the Oneida lake.

The strict union subsisting between the several branches of the legislature, gave a handle to Mr. Burnet's enemies to excite a clamour against him. Jealousies were industriously sown in the breasts of the people. The continuance of an assembly after the accession of a new governor, was represented as an anti-constitutional project; and though the affairs of the public were conducted with wisdom and spirit, many were so much imposed upon, that a rupture between the governor and the assembly was

thought to be absolutely necessary for the weal and safety of the community. But this was not the only stratagem of those who were disaffected by the prohibition of the French trade. The London merchants were induced to petition the king for an order to his governor, prohibiting the revival of the act made against it, or the passing any new law of that tendency. The petition was referred to the board of trade, and backed before their lordships with suggestions of the most notorious falsehoods. The lords of trade prudently advised that no such directions should be sent to Mr. Burnet, till he had an opportunity of answering the objections against the act. They were accordingly sent over to him, and he laid them before his council. Dr. Colden and Mr. Alexander exerted themselves in a memorable report in answer to them, which drew upon them the resentment of several merchants here, who had first excited the London petition, and laid the foundation for a variance between their families, which has manifested itself on many occasions. In justice to Mr. Burnet's memory, and to show the propriety of his measures for obstructing the French trade, I cannot refrain the republication of the council's report at full length.

“ May it please your Excellency,

“ In obedience to your excellency's commands, in council, the 29th of October, referring to us a petition of several merchants in London, presented to the king's most excellent majesty, against renewing an act passed in this province, entitled, ‘An act for the encouragement of the Indian trade, and rendering

it more effectual to the inhabitants of this province, and for prohibiting the selling of Indian goods to the French.' As likewise the several allegations of the said merchants before the right honourable the lords of trade and plantations, we beg leave to make the following remarks.

"In order to make our observations the more distinct and clear, we shall gather together the several assertions of the said merchants, both in their petition, and delivered verbally before the lords of trade, as to the situation of this province, with respect to the French and Indian nations; and observe on them, in the first place, they being the foundation on which all their other allegations are grounded. Afterwards we shall lay before your excellency, what we think necessary to observe on the other parts of the said petition, in the order they are in the petition, or in the report of the lords of trade.

"In their geographical accounts they say, 'Besides the nations of Indians that are in the English interest, there are very many nations of Indians, who are at present in the interest of the French, and who lie between New-York and the nations of Indians in the English interest.—The French and their Indians would not permit the English Indians to pass over by their forts.' The said act 'restrains them (the Five Nations) from a free commerce with the inhabitants of New-York.

"The five Indian nations are settled upon the banks of the river St. Lawrence, directly opposite to Quebec, two or three hundred leagues distant from the nearest British settlements in New-York.

“ ‘They (the five nations of Indians) were two or three hundred leagues distant from Albany; and that they could not come to trade with the English, but by going down the river St. Lawrence, and from thence through a lake, which brought them within eighteen leagues of Albany.’

“ These things the merchants have thought it safe for them, and consistent with their duty to his sacred majesty, to say in his majesty’s presence, and to repeat them afterwards before the right honorable the lords of trade, though nothing can be more directly contrary to the truth. For there are no nations of Indians between New-York and the nations of Indians in the English interest, who are now six in number, by the addition of the Tuscaroras. The Mowhawks (called Annies\* by the French) one of the Five Nations, live on the south side of a branch of Hudson’s river, (not on the north side as they are placed in the French maps) and but forty miles directly west of Albany, and within the English settlements; some of the English farms upon the same river, being thirty miles further west. The Oneidas (the next of the Five Nations) lie likewise west from Albany, near the head of the Mohawks’ river, about one hundred miles from Albany. The Onondagas lie about one hundred and thirty miles west from Albany; and the Tuscaroras live partly with the Oneidas and partly with the Onondagas. The Cayugas are about one hundred and sixty miles from Albany; and the Senecas (the furthest of all these nations) are not above two hundred and forty miles from Albany, as may appear

\* Agniés.

from Mr. De Lisle's map of Louisiana, who lays down the Five Nations under the name of Iroquois : and the goods are daily carried from this province to the Senecas, as well as to those nations that lie nearer, by water all the way, except three miles, (or in the dry seasons five miles) where the traders carry over land between the Mohawks' river and the wood creek, which runs into the Oneidas' lake, without going near either St. Lawrence river, or any of the lakes upon which the French pass, which are entirely out of their way.

"The nearest French forts or settlements to Albany, are Chambly and Montreal, both of them lying about north and by east from Albany, and are near two hundred miles distant from it. Quebec lies about three hundred and eighty miles north-east from Albany. So far is it from being true, that the Five Nations are situated upon the banks of the river St. Lawrence, opposite to Quebec, that Albany lies almost directly between Quebec and the Five Nations. And to say that these Indians cannot come to trade at Albany, but by going down the river St. Lawrence, and then into a lake eighteen leagues from Albany (we suppose they mean lake Champlain,) passing by the French forts, is to the same purpose as if they should say, that one cannot go from London to Bristol, but by way of Edinburgh.

"Before we go on to observe other particulars, we beg leave further to remark, that it is so far from being true, that the Indians in the French interest lie between New-York and our five nations of Indians ; that some of our nations of Indians lie between the French and the Indians from whence

the French bring the far greatest quantity of their furs : for the Senecas (whom the French call Sonontouons\*) are situated between lake Erie and Cadaracqui lake, (called by the French Ontario,) near the great fall of Iagara,† by which all the Indians that live round lake Erie, round the lake of the Hurons, round the lake of the Illinois, or Michigan, and round the great upper lake, generally pass in their way to Canada. All the Indians situated upon the branches of the Mississippi, must likewise pass by the same place, if they go to Canada. And all of them likewise, in their way to Canada, pass by our trading-place upon the Cadaracqui lake, at the mouth of the Onondaga river. The nearest and safest way of carrying goods upon the Cadaracqui lake, towards Canada, being along the south side of that lake (near where our Indians are settled, and our trade of late is fixed) and not by the north side and Cadaracqui, or Frontenac fort, where the French are settled.

“Now that we have represented to your excellency, that not one word of the geography of these merchants is true, upon which all their reasoning is founded, it might seem needless to trouble your excellency with any further remarks, were it not to show with what earnestness they are promoting the French interest, to the prejudice of all his majesty’s colonies in North America, and that they are not ashamed of asserting any thing for that end, even in the royal presence.

“First they say, ‘That by the act passed in this

\* Sonontouans.

† Sometimes Oniagara. Ochniagara, but commonly Niagara.

province, entitled an act for the encouragement of the Indian trade, &c., all trade whatsoever is prohibited in the strictest manner, and under the severest penalties, between the inhabitants of New-York government, and the French of Canada.'

"This is not true; for only carrying goods to the French which are proper for the Indian trade is prohibited. The trade, as to other things, is left in the same state it was before that act was made, as it will appear to any person that shall read it; and there are, yearly, large quantities of other goods openly carried to Canada, without any hindrance from the government of New-York. Whatever may be said of the severity and penalties in that act, they are found insufficient to deter some from carrying goods clandestinely to the French; and the legislature of this province are convinced that no penalties can be too severe, to prevent a trade which puts the safety of all his majesty's subjects of North America in the greatest danger.

"Their next assertion is, 'All the Indian goods have by this act been raised 25*l.* to 30*l.* per cent.' This is the only allegation in the whole petition that there is any ground for. Nevertheless, though the common channel of trade cannot be altered without some detriment to it in the beginning, we are assured from the custom-house books, that there has been every year, since the passing of this act, more furs exported from New-York, than in the year immediately before the passing of this act. It is not probable that the greatest difference between the exportation any year before this act and any year since, could so much alter the price of beaver,



as it is found to be this last year. Beaver is carried to Britain from other parts besides New-York, and it is certain that the price of beaver is not so much altered here by the quantity in our market, as by the demand for it in Britain. But as we cannot be so well informed here, what occasions beaver to be in greater demand in Britain, we must leave that to be inquired after in England. However, we are fully satisfied that it will be found to be for very different reasons from what the merchants allege.

“The merchants go on and say, ‘Whereas, on the other hand, this branch of the New-York trade, by the discouragements brought upon it by this act, is almost wholly engrossed by the French, who have already by this act been encouraged to send proper European goods to Canada, to carry on this trade, so that should this act be continued, the New-York trade, which is very considerable, must be wholly lost to us and centre in the French. Though New-York should not furnish them, the French would find another way to be supplied therewith, either from some other of his majesty’s plantations, or it might be directly from Europe—many of the goods which the Indians want, being as easy to be had directly from France or Holland, as from Great Britain.’

“This is easily answered, by informing your excellency, that the principal of the goods proper for the Indian market, are only of the manufactures of Great Britain, or of the British plantations, viz: strouds, or stroud-waters, and other woollens, and rum.—The French must be obliged to buy all their woollens (the strouds especially) in England, and

thence carry them to France, in order to their transportation to Canada.

"The voyage to Quebec, through the Bay of St. Lawrence, is well known to be the most dangerous of any in the world, and only practicable in the summer months. The French have no commodities in Canada, by reason of the cold and barrenness of the soil, proper for the West-India markets; and therefore have no rum but by vessels from France, that touch at their islands in the West-Indies. New-York has, by reason of its situation, both as to the sea and the Indians, every way the advantage of Canada. The New-York vessels make always two voyages in a year from England, one in summer, and another in winter, and several voyages in a year to the West-Indies. It is manifest, therefore, that it is not in the power of the French to import any goods near so cheap, to Canada, as they are imported to New-York.

"But to put this out of all controversy, we need only observe to your excellency, that strouds, without which no considerable trade can be carried on with the Indians, are sold at Albany for 10*l.* a piece; they were sold at Montreal, before this act took place, at 13*l.* 2*s.* 6*d.* and now they are sold there for 25*l.* and upwards; which is an evident proof, that the French have not in these four years' time (during the continuance of this act) found out any other way to supply themselves with strouds; and likewise that they cannot trade without them, seeing they buy them at so extravagant a price.

"It likewise appears, that none of the neighbouring colonies have been able to supply the French

with these goods, and those that know the geography of the country, know it is impracticable to do it at any tolerable rate, because they must carry their goods ten times further by land than we need to do.

“ We are likewise assured, that the merchants of Montreal lately told Mr. Vaudreuil, their governor, that if the trade from Albany be not by some means or other encouraged, they must abandon that settlement. We have reason therefore to suspect that these merchants (at least some of them) have been practised upon by the French agents in London; for no doubt, the French will leave no method untried to defeat the present designs of this government, seeing they are more afraid of the consequences of this trade between New-York and the Indians, than of all the warlike expeditions that ever were attempted against Canada.

“ But to return to the petitioners. ‘ They conceive nothing can tend more to the withdrawing the affections of the Five Nations of Indians from the English interest, than the continuance of the said act, which in its effects restrains them from a free commerce with the inhabitants of New-York, and may too probably estrange them from the English interest; whereas by a freedom of commerce, and an encouraged intercourse of trade with the French and their Indians, the English interest might, in time, be greatly improved and strengthened.’

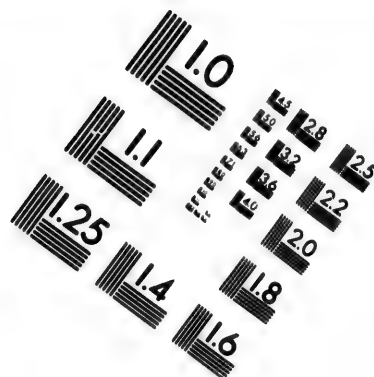
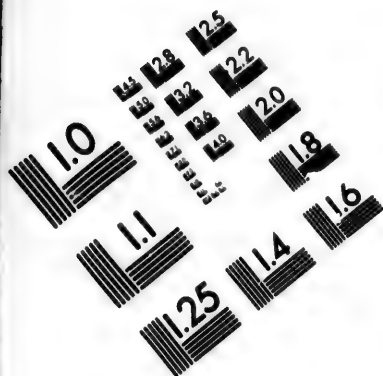
“ It seems to us a strange argument to say, that an act, the whole purport of which is to encourage our own people to go among the Indians, and to draw the far Indians through our Indian country to Albany (and which has truly produced these effects) would,

on the contrary, restrain them from a free commerce with the inhabitants of New-York, and may too probably estrange them from the English interest ; and therefore that it would be much wiser in us to make use of the French, to promote the English interest ; and for which end, we ought to encourage a free intercourse between them and our Indians.

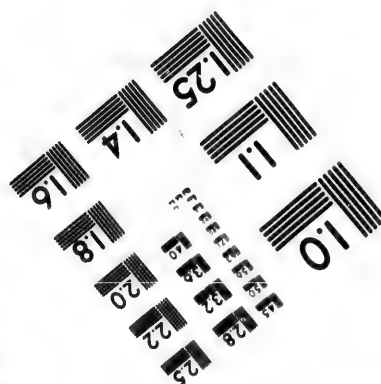
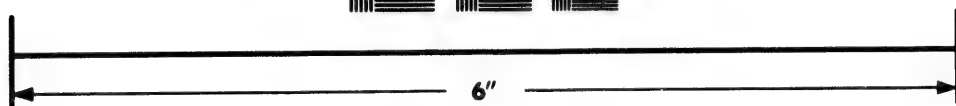
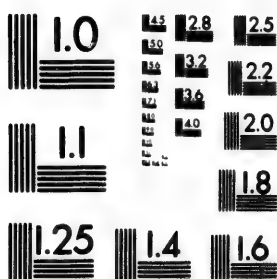
The reverse of this is exactly true, in the opinion of the Five Nations ; who, in all their public treaties with the British government, have represented against this the building the French forts with English arms, that the encouraging a freedom of commerce with the Indians, and the Indians round them, who must pass through their country to Albany, would certainly increase both the English interest and theirs, among all the nations to the westward of them ; and that the carrying the Indian market to Montreal in Canada, draws all the far Indians thither.

“ The last thing we have to take notice of is what the merchants asserted before the lords of trade, viz. ‘ That there has not been half the quantity of European goods exported since the passing of this act, that used to be.’—We are well assured, that this is no better grounded than the above facts they assert with the same positiveness. For it is well known almost to every person in New-York, that there has not been a less, but rather a greater quantity of European goods imported into this place since the passing of this act, than was at any time before it in the same space of time ; as this appears by the manifests in the custom-house here, the same may





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likewise be easily proved by the custom-house books in London.

"As all the arguments of the merchants run upon the ill effects this act has had upon the trade and the minds of the Indians, every one of which we have shown to be asserted without the least foundation to support them; there nothing now remains but to show the good effects this act has produced, which are so notorious in this province that we know not one person that now opens his mouth against the act.

"Before this act passed, none of the people of this province travelled into the Indian countries to trade. We have now above forty young men, who have been several times as far as the lakes a trading, and thereby become well acquainted, not only with the trade of the Indians, but likewise with their manners and languages; and those have returned with such large quantities of furs, that greater numbers are resolved to follow their example; so that we have good reason to hope, that in a little time the English will draw the whole Indian trade of the inland countries to Albany, and into the country of the Five Nations. This government has built a public trading-house upon Cadaracqui lake, at Irondequat, in the Senecas' land, and another is to be built next spring, at the mouth of the Onondagas' river. All the far Indians pass by these places in their way to Canada; and they are not above half so far from the English settlements, as they are from the French.

"So far is it from being true what the merchants say, 'that the French forts interrupt all communica-



tion between the Indians and the English;' that if these places be well supported, as they easily can be from our settlements, in case of a rupture with the French it will be in the power of this province to intercept the greatest part of the trade between Canada and the Indians round the lakes and the branches of the Mississippi. Since this act passed, many nations have come to Albany to trade and offer peace and friendship, whose names had not so much as been heard of among us. In the beginning of May, 1723, a nation of Indians came to Albany singing and dancing, with their calumets before them, as they always do when they come to any place where they have not been before. We do not find that the commissioners of Indian affairs were able to inform themselves what nation this was.

"Towards the end of the same month, eighty men, besides the women and children, came to Albany in the same manner. These had one of our Five Nations with them for an interpreter, by whom they informed the commissioners that they were of a great nation, called Nehkeregages, consisting of six castles and tribes; and that they lived near a place called by the French, Missimakinah, between the upper lake and the lake of the Hurons. These Indians not only desired a free commerce, but likewise to enter into a strict league of friendship with us and our six nations, that they might be accounted the seventh nation in the league, and being received accordingly, they left their calumet as a pledge of their fidelity. In June another nation arrived, but from what part of the continent we have not learned.

"In July the Twightwies arrived, and brought an Indian interpreter of our nations with them, who told that they were called by the French, *Miamies*, and that they live upon one of the branches of the river *Mississippi*. At the same time some of the *Tahsagrondie* Indians, who live between lake *Erie* and the lake *Huron*, near a French settlement, did come and renew their league with the English, nor durst the French hinder them. In July this year, another nation came, whose situation and name we know not; and in August and September, several parties of the same Indians that had been here last year: but the greatest numbers of these far Indians have been met this year in the Indian country, by our traders, every one of them endeavoring to get before another, in order to reap the profits of so advantageous a trade, which has all this summer long kept about forty traders constantly employed, in going between our trading places in our Indian country, and *Albany*.

"All these nations of Indians, who came to *Albany*, said that the French had told them many strange stories of the English, and did what they could to hinder their coming to *Albany*, but that they had resolved to break through by force. The difference on this score between the *Tahsagrondie* Indians and the French (who have a fort and settlement there, called by them *Le Detroit*) rose to that height, this summer, that *Mr. Tonti*, who commanded there, thought it proper to retire, and return to *Canada* with many of his men.

"We are, for these reasons, well assured that this year there will be more beaver exported for

Great Britain than ever was from this province in one year; and that if the custom-house books at London be looked into, it will be found that there will be a far greater quantity of goods for the Indians (strouds especially) sent over next spring, than ever was at any one time to this province. For the merchants here tell us, that they have at this time ordered more of these goods than ever was done at any one time before.

"These matters of fact prove beyond contradiction that this act has been of the greatest service to New-York, in making us acquainted with many nations of Indians, formerly entirely unknown and strangers to us; withdrawing them from their dependance upon the French, and in uniting them to us and our Indians, by means of trade and mutual offices of friendship. Of what great consequence this may be to the British interest in general, as to trade, is apparent to any body. It is no less apparent likewise, that it is of the greatest consequence to the safety of all the British colonies in North America. We feel too sensibly the ill effects of the French interest in the present war betwixt New-England and only one nation of Indians supported by the French. Of what dismal consequences then might it be, if the French should be able to influence, in the same manner, so many and such numerous nations, as lie to the westward of this province, Pennsylvania, and Maryland? On the other hand, if all these nations (who assert their own freedom, and declare themselves friends to those that supply them best with what they want) be brought to have a dependance upon the English

(as we have good reason to hope in a short time they will) the French of Canada, in case of a war, must be at the mercy of the English.

“To these advantages must be added, that many of our young men having been induced by this act to travel among the Indians, they learn their manners, their languages, and the situation of all their countries, and become inured to all manner of fatigues and hardships; and a great many more being resolved to follow their example, these young men, in case of war with the Indians, will be of ten times the service that the same number of the common militia can be of. The effects of this act have likewise so much quieted the minds of the people, with respect to the security of the frontiers, that our settlements are now extended above thirty miles further west towards the Indian countries, than they were before it passed.

“The only thing that now remains to answer, is an objection which we suppose may be made: what can induce the merchants of London to petition against an act which will be really so much for their interest in the end? The reason is in all probability, because they only consider their present gain; and that they are not at all concerned for the safety of this country, in encouraging the most necessary undertaking, if they apprehend their profit for two or three years may be lessened by it. This inclination of the merchants has been so notorious, that few nations at war with their neighbours have been able to restrain them from supplying their enemies with ammunition and arms. The count D'Estrade, in his letters in 1638, says, that when the Dutch were

besieging Antwerp, one Beiland, who had loaded four fly-boats with arms and powder for Antwerp, being taken up by the prince of Orange's order, and examined at Amsterdam, said boldly that the burghers of Amsterdam had a right to trade every where: that he could name a hundred that were factors for the merchants at Antwerp, and that he was one. 'That trade cannot be interrupted, and that for his part he was very free to own, that if to get any thing by trade it were necessary to pass through hell, he would venture to burn his sails.' When this principle so common to merchants is considered, and that some in this place have got estates by trading many years to Canada, it is not to be wondered that they have acted as factors for Canada in this affair, and that they have transmitted such accounts to their correspondents in London as are consistent with the trust reposed in them by the merchants of Canada.

"In the last place, we are humbly of opinion that it may be proper to print the petition of the merchants of London, and their allegations before the lords of trade, together with the answers your committee has made thereto in vindication of the legislature of this province, of which we have the honour to be a part, if your excellency shall approve of our answers, that what we have said may be exposed to the examination of every one in this place where the truth of the matters of fact is best known, and that the correspondents of these merchants may have the most public notice to reply, if they shall think it proper, or to disown in a public manner that they

are the authors of such groundless informations.  
All which is unanimously and humbly submitted by

“Your Excellency’s

“Most obedient humble servants,

“R. WALTER,

“RIP VAN DAM,

“JOHN BARBARIE,

“FR. HARRISON,

“CADWALLADER COLDEN,

“JAMES ALEXANDER,

“ABRAHAM VAN HORNE.”

Governor Burnet transmitted this report to the board of trade, and it had the intended effect.

About the latter end of the year 1724, an unfortunate dispute commenced in the French church, of which, because it had no small influence on the public affairs of the government, I shall lay before the reader a short account.

The persecutions in France, which ensued upon the revocation of the edict of Nantz, drove the protestant subjects of Louis XIV. into the territories of other princes ; many of them fled even into this province ; the most opulent settled in the city of New-York, others went into the country and planted New Rochelle, and a few seated themselves at the New Paltz in Ulster county. Those who resided in New-York soon erected a church upon the principles and model of that in Geneva ; and by their growth and foreign accessions, formed a congregation for numbers and riches superior to all but the Dutch. They had two ministers : Rou, the first called, was a man

of learning, but proud, pleasurable, and passionate : Moulinaars, his colleague, was most distinguished for his pacific spirit, dull parts, and unblameable life and conversation ; Rou despised his fellow labourer, and for a long time commanded the whole congregation by the superiority of his talents for the pulpit. The other, impatient of repeated affronts and open contempt, raised a party in his favour, and this year succeeded in the election of a set of elders disposed to humble the delinquent. Rou being suspicious of the design, refused to acknowledge them duly elected. Incensed at this conduct, they entered an act in their minutes, dismissing him from the pastoral charge of the church, and procured a ratification of the act under the hands of the majority of the people. Governor Burnet had, long before this time, admitted Rou into his familiarity, on the score of his learning : and that consideration encouraged a petition to him, from Rou's adherents, complaining against the elders. The matter was then referred to a committee of the council, who advised that the congregation should be admonished to bring their differences to an amicable conclusion. Some overtures, to that end, were attempted ; and the elders offered to submit the controversy to the Dutch ministers. But Rou, who knew that the French church in this country, without a synod, was unorganized, and could not restrain him, chose rather to bring his bill in chancery before the governor.

Mr. Alexander was his council, and Mr. Smith,\*

\* These gentlemen came into the colony in the same ship in 1715. The latter was born at Newport Pagnol, in Buckinghamshire. They were among the

a young lawyer, of the first reputation as a speaker, appeared for the elders. He pleaded to the jurisdiction of the court, insisting that the matter was entirely ecclesiastical, and, in the prosecution of his argument, entered largely into an examination of the government of the protestant churches in France. According to which, he showed that the consistory were the proper judges of the point in dispute, in the first instance; and that from thence an appeal lay to a Collogue, next to a Provincial, and last of all to a national synod. Mr. Burnet nevertheless overruled the plea, and the defendants, being fearful of a decree, that might expose their own estates to the payment of Rou's salary, thought it advisable to drop their debates, reinstate the minister, and leave the church.

All those who opposed Rou were disobliged with the Governor; among these Mr. De Lancey was the most considerable for his wealth and popular influence. He was very rigid in his religious profession, one of the first builders, and by far the most generous benefactor of the French church, and therefore left it with the utmost reluctance. Mr. Burnet, before this time, had considered him as his enemy, because he had opposed the prohibition of the French trade; and this led him into a step, which, as it was a

principal agents in the political struggles during the administration of colonel Cosby. Mr. Smith was a nephew of that William Smith who was one of the grand jury committed by the assembly in 1717. He had suffered by the memorable earthquake of Port Royal, in Jamaica, at the close of the last century, but having repaired his losses by a successful commerce and marriage, removed to New-York, and at his instance several branches of his family were induced to leave Buckinghamshire and become inhabitants of this colony.—The uncle came here in queen Anne's reign.



personal indignity, Mr. De Lancey could never recollect without resentment. This gentleman was returned for the city of New-York, in the room of a deceased member, at the meeting of the assembly in September 1725. When he offered himself for the oaths, Mr. Burnet asked him how he became a subject of the crown? He answered, that he was denized in England, and his excellency dismissed him, taking time to consider the matter. Mr. De Lancey then laid before the house an act of a notary public, certifying that he was named in a patent of denization, granted in the reign of James the second—a patent of the same kind, under the great seal of this province, in 1686—and two certificates, one of his having taken the oath of allegiance, according to an act passed here in 1683, and another of his serving in several former assemblies. The governor, in the mean time, consulted the chief justice, and transmitted his opinion\* to the house, who resolved in favour of Mr. De Lancey. Several other new representatives came in, at this session, upon the decease of the old members; and Adolphe Phillipse, who was some time before dismissed from the council board, was elected into the speaker's chair, in the absence of Mr. Livingston. The majority, however, continued in the interest of the governor, and consented to the revival of the several acts which had been passed for prohibiting the French trade, which, in spite of all the restraints laid upon it, was clandestinely carried on by the people of

\* What colonel Morris's opinion was, I have not been able to discover. Governor Burnet's conduct was thought to be unconstitutional, and an invasion of the rights of the assembly, who claim the exclusive privilege of determining the qualifications of their own members.

Albany. Oswego, nevertheless, grew considerable for its commerce ; fifty-seven canoes went there this summer, and returned with seven hundred and thirty-eight packs of beaver and deer skins.

Nothing could more naturally excite the jealousy of the French, than the erection of the new trading house at the mouth of the Onondaga river. Fearful of losing a profitable trade, which they had almost entirely engrossed, and the command of the lake Ontario, they launched two vessels in it in 1726, and transported materials for building a large store-house and repairing the fort at Niagara. The scheme was not only to secure to themselves the entrance into the west end of the lake, as they already had the east, by the fraudulent erection of fort Frontenac, many years before ; but also to carry their trade more westerly, and thus render Oswego useless, by shortening the travels of the western Indians, near two hundred miles. Baron de Longueil, who had the chief command in Canada, on the death of the Marquis de Vaudreuil, in October 1725, was so intent upon this project, that he went in person to the Onondaga canton, for leave to raise the store-house at Niagara : and as those Indians were most of all exposed to the intrigues of the Jesuits, who constantly resided amongst them ; he prevailed upon them by fraud and false representations to consent to it, for their protection against the English. But as soon as this matter was made known to the other nations, they declared the permission granted by the Onondagas to be absolutely void, and sent deputies to Niagara, with a message, signifying that the country in which they were at work belonged solely

to the Senecas, and required them immediately to desist. The French, notwithstanding, were regardless of the embassy, and pushed on their enterprise with all possible despatch, while Joncaire exerted all his address among the Indians to prevent the demolition of the works. Canada was very much indebted to the incessant intrigues of this man. He had been adopted by the Senecas, and was well esteemed by the Onondagas. He spoke the Indian language, as Charlevoix informs us, "*avec la plus sublime éloquence Iroquois,*" and had lived among them, after their manner, from the beginning of queen Anne's reign. All these advantages he improved for the interest of his country; he facilitated the missionaries in their progress through the cantons, and more than any man, contributed to render their dependence upon the English weak and precarious. Convinced of this, colonel Schuyler urged the Indians, at his treaty with them in 1719, to drive Joncaire out of their country, but his endeavors were fruitless.\*

The Jesuit Charlevoix does honour to Mr. Burnet in declaring that he left no stone unturned to defeat the French designs at Niagara; nor is it much to be wondered at, for besides supplanting his favourite trade at Oswego, it tended to the defection of the Five Nations; and, in case of a rupture, exposed the frontiers of our southern colonies to the ravages of the French and their allies. Mr. Burnet, upon whom

\* The same thing has since been frequently laboured, but to no purpose. His son continued the course of intrigues begun by the father, till general Shirley, while he was at Oswego, in 1755, prevailed upon the Senecas to order him to Canada.

these considerations made the deepest impression laid the matter before the house, remonstrated against the proceedings to Longueil in Canada, wrote to the ministry in England, who complained of them to the French court, and met the confederates at Albany, endeavouring to convince them of the danger they themselves would be in from an aspiring, ambitious neighbour; he spoke first about the affair privately to the sachems, and afterwards in the public conference, informed them of all the encroachments which the French had made upon their fathers, and the ill usage they had met with, according to La Potherie's account, published with the privilege of the French king, at Paris, in 1722. He then reminded them of the kind treatment they had received from the English, who constantly fed and clothed them, and never attempted any act of hostilities to their prejudice. This speech was extremely well drawn, the thoughts being conceived in strong figures, particularly expressive and agreeable to the Indians. The governor required an explicit declaration of their sentiments, concerning the French transactions at Niagara, and their answer was truly categorical. "We speak now in the name of all the Six Nations, and come to you howling. This is the reason why we howl, that the governor of Canada encroaches on our land and builds thereon." After which they entreated him to write to the king for succour. Mr. Burnet embraced this favorable opportunity to procure from them a deed, surrendering their country to his majesty, to be protected for their use, and confirming their grant in 1701, concerning which there was only an

entry in the books of the secretary for Indian affairs.\* It happened very unfortunately, that his excellency's hands were then more weakened than ever, by the growing disaffection in the house. The intrigues of his adversaries, and the frequent deaths of the members, had introduced such a change in the assembly, that it was with difficulty he procured a three years' support. The clamours of the people ran so high without doors for a new election, that he was obliged to dissolve the house, and soon after another dissolution ensued on the death of the king. The French, in the mean time, completed their works at Niagara, and Mr. Burnet, who was unable to do any thing else, erected a fort in 1727, for the protection of the post and trade at Oswego. This necessary undertaking was pregnant with the most important consequences, not only to this, but all our colonies; and though the governor's seasonable activity deserved the highest testimonials of our gratitude, I am ashamed to confess, what I am bound to relate, that he built the fort at his private expense, and that a balance of £56 principal, though frequently demanded, remains due to his estate to this very day.

Beauharnois, the governor of Canada, who superseded Longuiel, was so incensed at the building of

\* Besides the territories at the west end of lake Erie, and on the north side of that, and the lake Ontario, which were ceded in 1701; the Indians now granted for the same purpose all their habitations from Oswego to Cayahoga river, which disembugues into lake Erie, and the country extending sixty miles from the southernmost banks of those lakes. Though the first surrender through negligence was not made by the execution of a formal deed under seal, yet, as it was transacted with all the solemnity of a treaty, and as the second surrender confirms the first, no intermediate possession by the French can prejudice the British title derived by the cession in 1701.

the fort, that he sent a written summons, in July, to the officer posted there, to abandon it; and though his predecessor had done the same a little before, at Niagara, in the county of the Senecas, the acknowledged subjects of the British crown,\* yet, with a singular effrontery, he despatched De la Chassaigne, a man of parts and governor of Trois Rivieres, to New-York, with the strongest complaints to Mr. Burnet upon that head. His excellency sent him a polite but resolute answer, on the 8th of August, in which he refuted the arguments urged by the French governor-general, and remonstrated against the proceedings of the last year at Niagara.

The new assembly met in September, 1727, and consisted of members all ill affected to the governor. The long continuance of the last, the clamours which were excited by several late important decrees in chancery, the affair of the French church, and especially the prohibiting the Canada trade, were the causes to which the loss of his interest is to be ascribed. Mr. Philipse, the speaker, was piqued at a decree in chancery against himself, which very much affected his estate; no wonder then that the

\* Though the sovereignty over the Five Nations was ceded to Great Britain, and Charlevoix himself had acknowledged that Niagara was part of their country, yet the pious jesuit applauds the French settlement there, which was so manifest an infraction of the treaty of Utrecht. The marquis De Nonville, in his letter to the court of France, in 1686, proposed the erection of a fort there, to secure the communication with the lakes and deprive us of a trade which he computed to be worth 400,000 francs per annum. Charlevoix perhaps considered these advantages sufficient to justify the violation of public faith; reasoning upon the principles of Le Chevalier de Cellieres, who thought the legality of making a conquest of New-York during the strict peace in James the second's reign, might be inferred from the benefit that would thereby accrue to the French colony, "*que il n'y avoit point d'autre voye pour conserver la colonie, que de nous rendre maitres de la Nouvelle York; and que cette conquête etoit legitime par la necessité.*"

members, who were very much influenced by him, came on the 25th of November, into the following resolutions. Colonel Hicks, from the committee of grievances, reported, "that as well by the complaints of several people, as by the general cry of his majesty's subjects inhabiting this colony, they find that the court of chancery, as lately assumed to be set up here, renders the liberties and properties of the said subjects extremely precarious; and that by the violent measures taken in, and allowed by it, some have been ruined, others obliged to abandon the colony, and many restrained in it, either by imprisonment or by excessive bail exacted from them not to depart, even when no manner of suits are depending against them: and therefore are of opinion, that the extraordinary proceedings of that court, and the exorbitant fees and charges countenanced to be exacted by the officers and practitioners thereof, are the greatest grievance and oppression this colony hath ever felt; and that for removing the fatal consequences thereof, they had come to several resolutions, which being read, were approved by the house, and are as follow:

*"Resolved,* That the erecting or exercising in this colony, a court of equity or chancery (however it may be termed) without consent in general assembly, is unwarrantable and contrary to the laws of England, and a manifest oppression and grievance to the subjects, and of a pernicious consequence to their liberties and properties.

*"Resolved,* That this house will, at their next meeting, prepare and pass an act to declare and adjudge all orders, ordinances, devices and pro-

ceedings of the court, so assumed to be erected and exercised as above-mentioned, to be illegal, null and void, as by law and right they ought to be.

*"Resolved,* That this house, at the same time, will take into consideration whether it be necessary to establish a court of equity or chancery in this colony, in whom the jurisdiction thereof ought to be vested, and how far the powers of it shall be prescribed and limited."

Mr. Burnet no sooner heard of these votes, than he called the members before him, and dissolved the assembly. They occasioned, however, an ordinance in the spring following, as well to remedy sundry abuses in the practice in chancery, as to reduce the fees of that court, which on account of the popular clamours, were so much diminished, that the wheels of the chancery have ever since rusted upon their axis, the practice being contemned by all gentlemen of eminence in the profession.

We are now come to the close of Mr. Burnet's administration, when he was appointed to the chief command of the Massachusetts Bay. Though we never had a governor to whom the colony is so much indebted as to him; yet the influence of a faction, in the judgment of some, rendered his removal necessary for the public tranquillity. Insensible of his merit, the undistinguishing multitude were taught to consider it as a most fortunate event; and till the ambitious designs of the French king, with respect to America, awakened our attention to the general welfare, Mr. Burnet's administration was as little esteemed as that of the meanest of his predecessors.

He was very fond of New-York, and left it with



reluctance. His marriage here connected him with a numerous family, and besides an universal acquaintance, there were some gentlemen with whom he contracted a strict intimacy and friendship.

The excessive love of money, a disease common to all his predecessors, and to some who succeeded him, was a vice from which he was entirely free. He sold no offices, nor attempted to raise a fortune by indirect means; for he lived generously, and carried scarce any thing away with him but his books. These and the conversation of men of letters were to him inexhaustible sources of delight. His astronomical observations have been useful; but by his comment on the apocalypse, he exposed himself, as other learned men have before him, to the criticisms of those who have not abilities to write half so well.

John Montgomerie, esq. received the great seal of this province from Mr. Burnet, on the 15th of April, 1728, having a commission to supersede him here and in New-Jersey. The council board consisted of

Mr. WALTERS,	Mr. ALEXANDER,
Mr. VAN DAM,	Mr. MORRIS, JUN.
Mr. BARBARIE,	Mr. VAN HORNE,
Mr. CLARKE,	Mr. PROVOOST,
Mr. HARRISON,	Mr. LIVINGSTON,
Dr. COLDEN,	Mr. KENNEDY.

The governor was a Scotch gentleman, and bred a soldier, but in the latter part of his life he had little concern with arms, having served as groom of the bed-chamber to his present majesty, before his accession to the throne. This station, and a seat he

had in parliament, paved the way to his preferment in America. In his talents for government he was much inferior to his predecessor, for he had neither strength nor acuteness of parts, and was but little acquainted with any kind of literature.

As in the natural, so in the political world, a violent storm is often immediately succeeded by a peaceful calm; tired by the mutual struggles of party rage, every man now ceased to act under its influence. The governor's good humour too extinguished the flames of contention, for being unable to plan, he had no particular scheme to pursue; and thus by confining himself to the exercise of the common acts of government, our public affairs flowed on in a peaceful, uninterrupted stream.

The reader will, for this reason, find none of those events in colonel Montgomerie's short administration, which only take rise under the superintendency of a man of extensive views. Indeed he devoted himself so much to his ease, that he has scarce left us any thing to perpetuate the remembrance of his time.

The two rocks upon which the public tranquillity was shipwrecked in the late administration he carefully avoided; for he dissolved the assembly, called by his predecessor, before they had ever been convened: and as to the chancery he himself countenanced the clamours against it, by declining to sit; till enjoined to exercise the office of chancellor by special orders from England. He then obeyed the command, but not without discovering his reluctance, and modestly confessing to the practisers, that he thought himself unqualified for the station.

Indeed the court of chancery was evidently his aversion, and he never gave a single decree in it, nor more than three orders; and these, both as to matter and form, were first settled by the council concerned.

Mr. Philipse was chosen speaker of the assembly which met on the 23d of July, and continued sitting in perfect harmony till autumn. After his excellency had procured a five years' support, and several other laws to his mind, of less considerable moment, he went up to Albany, and, on the 1st of October, held a treaty with the Six Nations for a renewal of the ancient covenant. He gave them great presents, and engaged them in the defence of Oswego.

Nothing could be more seasonable than this interview, for the French, who eyed that important garrison, and our increasing trade there, with the most restless jealousy, prepared early in the spring following to demolish the works. Governor Burnet gave the first intelligence of this design in a letter to Colonel Montgomerie, dated at Boston the 31st of March, 1729. The garrison was thereupon immediately reinforced by a detachment from the independent companies; which, together with the declared resolution of the Indians to protect the fort, induced the French to desist from the intended invasion.\*

\* From that time to the year 1754, this garrison was guarded only by a lieutenant and five and twenty men. General Shirley's parting from the forces destined against fort Du Quesne, and proceeding with half the army to Oswego in 1755, was extremely fortunate to our colonies; the French being then determined and prepared to possess themselves of that post. Besides the vessels launched there to secure the command of the lake, the general before he returned to winter quarters, erected two strong square forts with bastions, commanding as well the entrance into the Onondaga river as the old fort, in the situation of which little regard was had to any thing besides the pleasantness of the prospect.

Thus far our Indian affairs appeared to be under a tolerable direction ; but these fair prospects were soon obscured by the king's repealing, on the 11th of December, 1729, all the acts which Mr. Burnet, with so much labour and opposition, procured for the prohibition of an execrable trade between Albany and Montreal. To whose intrigues this event is to be ascribed, cannot be certainly determined ; but that it was pregnant with the worst consequences, time has sufficiently evinced : nothing could more naturally tend to undermine the trade at Oswego, to advance the French commerce at Niagara, to alienate the Indians from their fidelity to Great Britain, and particularly to rivet the defection of the Caghnugas. For these residing on the south side of St. Lawrence, nearly opposite to Montreal, were employed by the French as their carriers, and thus became interested against us, by motives of the most prevailing nature. One would imagine that after the attention bestowed on this affair in the late administration, the objections against this trading intercourse with Canada must have been obvious to the meanest capacity ; and yet so astonishing has been our conduct, that from the time Mr. Burnet removed to Boston, it has rather been encouraged than restrained. This trade, indeed, was subject to duties ; but that at Oswego always was, and still is, exposed to the same incumbrance ; while the French trade, in the interval between the years 1744 and 1750, was perfectly free : and as the duty, by the law then made, is laid only on goods sold in the city and county of Albany, the trader, to elude the act, is only exposed to the trouble of transporting his merchandise

beyond the scant district of the city ascertained in the charter. But how much soever our inattention to this matter may deserve censure, I cannot in justice to my countrymen help observing, that from the severest scrutiny I could make, our people are free from the charge of selling ammunition to the French, which has so unjustly exposed the inhabitants of Albany to the odium of all the colonies in New-England.\*

The year 1731 was distinguished only by the complete settlement of the disputed boundary between this province and the colony of Connecticut; an event, considering the late colonizing spirit and extensive claims of the people of New-England, of no small importance, and concerning which it may be proper to give a succinct account.

The partition line agreed upon in 1664 being considered as fraudulent or erroneous, a second agreement, suspended only for the king's and the duke's approbation, was concluded on the 23d of November, 1683, between colonel Dongan and his council, and Robert Trent, esq. then governor of Connecticut, and several other commissioners appointed by that colony. The line of partition then agreed to be established, was to begin at the mouth of Byram brook, "where it falleth into the Sound at a point called Lyon's Point, to go as the said river runneth to the place where the common road or wading place over the said river is; and from the said road or wading place to go north north-west into the country, as far as will be eight English

\* Ever since the year 1729, the sale of arms and ammunition to the French has been exempt both from duties and a prohibition, which I attribute to the confidence of the government that the calumny is entirely groundless.

miles from the aforesaid Lyon's Point ; and that a line of twelve miles being measured from the said Lyon's Point, according to the line or general course of the Sound eastward, where the said twelve miles endeth, another line shall be run from the Sound eight miles into the country north north-west ; and also, that a fourth line be run (that is to say from the northernmost end of the eight miles line, being the third mentioned line,) which fourth line with the first mentioned line shall be the bounds where they shall fall to run ; and that from the easternmost end of the fourth mentioned line (which is to be twelve miles in length) a line parallel to Hudson's river, in every place twenty miles distant from Hudson's river, shall be the bounds there, between the said territories or province of New-York, and the said colony of Connecticut, so far as Connecticut colony doth extend northwards ; that is to the south line of the Massachusetts colony : only it is provided, that in case the line from Byram brook's mouth, north north-west eight miles, and the line that is then to run twelve miles to the end of the third fore-mentioned line of eight miles, do diminish or take away land within twenty miles of Hudson's river, that then so much as is in land diminished of twenty miles of Hudson's river thereby, shall be added out of Connecticut bounds unto the line afore-mentioned, parallel to Hudson's river and twenty miles distant from it ; the addition to be made the whole length of the said parallel line, and in such breadth as will make up quantity for quantity what shall be diminished as aforesaid."

Pursuant to this agreement, some of the lines were

actually run out, and a report made of the survey, which, on the 24th of February, 1684, was confirmed by the governor of each colony at Milford in Connecticut. Here the matter rested till a dispute arose concerning the right of jurisdiction over the towns of Rye and Bedford, which occasioned a solicitation at home; and on the 28th of March, 1700, king William was pleased to confirm the agreement made in 1683.

Nineteen years afterwards, a probationary act was passed, empowering the governor to appoint commissioners as well to run the line parallel to Hudson's river as to re-survey the other lines and distinguish the boundary. The Connecticut agent opposed the king's confirmation of this act *totis viribus*, but it was approved on the 23d of January, 1723. Two years after the commissioners and surveyors of both colonies met at Greenwich, and entered first into an agreement relating to the method of performing the work.

The survey was immediately after executed in part, the report being dated on the 12th of May, 1725; but the complete settlement was not made till the 14th of May, 1731, when indentures certifying the execution of the agreement in 1725, were mutually signed by the commissioners and surveyors of both colonies. Upon the establishment of this partition, a tract of land lying on the Connecticut side consisting of above sixty thousand acres, from its figure called the Oblong was ceded to New-York, as an equivalent for lands near the Sound surrendered to Connecticut.\*

\* See Douglas's late plan of the British dominions of New-England.

The very day after the surrender made by that colony, a patent passed in London to sir Joseph Eyles and others, intended to convey the whole Oblong. A grant posterior to the other was also regularly made here to Hauley and Company of the greatest part of the same tract, which the British patentees brought a bill in chancery to repeal; but the defendants filed an answer, containing so many objections against the English patent, that the suit remains still unprosecuted, and the American proprietors have ever since held the possession. Mr. Harison of the council, solicited this controversy for sir Joseph Eyles and his partners, which contributed in a great degree to the troubles so remarkable in a succeeding administration.

Governor Montgomerie died on the 1st of July, 1731; and being a man of a kind and humane disposition, his death was not a little lamented. The chief command then devolved upon Rip Van Dam, esq. he being the oldest counsellor, and an eminent merchant of a fair estate, though distinguished more for the integrity of his heart than his capacity to hold the reins of government: he took the oaths before

MR. ALEXANDER,

MR. DE LANCY,\* and

MR. VAN HORNE,

MR. COURTLANDT.

MR. KENNEDY,

This administration is unfortunately signalized by the memorable encroachment at Crown Point. An enemy despised at first for his weakness generally grows formidable by his activity and craft; this ob-

\* This gentleman being a youth of fine parts, was called up to the council board on the 26th of January, 1729, just after his return from the university. Mr. Morris, jun. was suspended on the same day, for words dropped in a dispute relating to the governor's draughts upon the revenue.



ervation is true, applied to private persons, religious sects, or public states. The French in Canada have always been jealous of the increasing strength of our colonies; and a motive of fear led them naturally to concert a regular system of conduct for their defence: confining us to scant limits along the seacoast is the grand object they have long had in view; and seizing the important passes from Canada to Louisiana, seducing our Indian allies, engrossing the trade, and fortifying the routes into their country, were all proper expedients towards the execution of their plan. By erecting fort St. Frederic, they secured the absolute command of lake Champlain, through which we must pass if ever a descent be made upon Canada, either to conquer the country, or harass its out-settlements. The garrison was at first situated on the east side of the lake near the south end; but was afterwards built upon a commodious point on the opposite side: of all the infractions of the treaty of Utrecht none was more palpable than this. The country belonged to the Six Nations, and the very spot upon which the fort stands is included within a patent to Dellius, the Dutch minister of Albany, granted under the great seal of this province in 1696; besides, nothing could be more evident than the danger to which it exposed us. Through this lake the French parties made their ancient bloody incursions upon Schenectady, the Mohawks' castles, and Deerfield; and the erection of this fort was apparently adapted to facilitate the inroads of the enemy upon the frontiers of the colonies of New-York, Massachusetts Bay, and New-Hampshire; for it served not only as an asylum to

fly to after the perpetration of their inhumanities, but for a magazine of provisions and ammunition; and though it was much above one hundred and twenty miles from the very city of Albany, yet by the conveyance through Sorel river and the lake, it may be reinforced from Montreal in three or four days.

The Massachusetts government foresaw the dangerous consequences of the French fort at Crown Point, and governor Belcher gave us the first information of it in a letter from Boston to Mr. Van Dam. He informed him of the vote of the general court to bear their proportion of the charge of an embassy to Canada to forbid the works, and pressed him to engage the opposition of the Six Nations. Van Dam laid the letter before his council on the 4th of February, 1732, who with singular calmness advised him to write to the commissioners of Indian affairs at Albany, ordering them to inquire whether the land belonged to the confederates or the River Indians. That Mr. Van Dam ever wrote to the commissioners I have not been able to discover; nor whether any complaint of the encroachment was sent home, according to the second advice of council on the 11th of February, who, besides the first step, were now pleased to recommend his transmitting governor Belcher's letter and the Boston vote to the several south-western colonies.

The passiveness we discovered on this impudent and dangerous invasion of his majesty's rights, is truly astonishing; and the more so, as the crown had at that time four independent companies, which had long been posted here for our protection, at the annual expense of about 7500 pounds sterling. A

very good scheme, in some measure to repair this shameful misconduct, was afterwards projected by settling the lands near lake George with loyal protestant highlanders from Scotland. Captain Laughlin Campbel, encouraged by a proclamation to that purpose, came over in 1737, and ample promises were made to him. He went upon the land, viewed and approved it, and was entreated to settle there even by the Indians, who were taken with his highland dress. Mr. Clarke, the lieutenant-governor, promised him, in a printed advertisement, the grant of 30,000 acres of land, free from all but the charges of the survey and the king's quit rent. Confiding on the faith of the government, captain Campbel went home to Isla, sold his estate, and shortly after transported, at his own expense, eighty-three protestant families, consisting of four hundred and twenty-three adults, besides a great number of children. Private faith and public honour loudly demanded the fair execution of a project so expensive to the undertaker and beneficial to the colony; but it unfortunately dropped, through the sordid views of some persons in power, who aimed at a share in the intended grant, to which Campbel, who was a man of spirit, would not consent.

Captain Campbel afterwards made an attempt to redress himself, by an application to the assembly here, and then to the board of trade in England. The first proved abortive, and such were the difficulties attending the last, that he left his colonists to themselves, and, with the poor remains of his broken fortune, purchased a small farm in this

province. No man was better qualified than he for the business he had engaged in. He had a high sense of honour and a good understanding; was active, loyal, and of a military disposition: for, upon the news of the late rebellion in Scotland, he went home, fought under the duke, returned to his family, and soon after died, leaving a widow and several children, who still feel the consequences of his disappointments.

Mr. Van Dam finished his administration on the 1st of August, 1732, when William Cosby, esq. arrived with a commission to govern this and the province of New-Jersey. The history of our public transactions, from this period to the present time, is full of important and entertaining events, which I leave others to relate. A very near relation to the author had so great a concern in the public controversies with colonel Cosby, that the history of those times will be better received from a more disinterested pen. To suppress truth on the one hand, or exaggerate it on the other, are both inexcusable faults, and perhaps it would be difficult for me to avoid those extremes. Besides, a writer who exposes the conduct of the living, will inevitably meet with their fury and resentment. The prudent historian of his own times will always be a coward, and never give fire till death protects him from the malice and stroke of his enemy.

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## APPENDIX.

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## APPENDIX.

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### THE HISTORY OF NEW-YORK.

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#### CHAPTER I.

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##### A GEOGRAPHICAL DESCRIPTION OF THE COUNTRY.

THE province of New-York, at present, contains, Long Island, Staten Island, and the lands on the east side of Hudson's river, to the bounds of Connecticut. From the division line between that colony and the Massachusetts Bay, northward, to the line between us and the French, we claim an extent to Connecticut river.\* On the west side of Hudson's

\* The grounds of this claim are contained in the following report of a committee of council, to governor Clinton, on the 2d of March, 1753, which was drawn up by Mr. Alexander.

*"May it please your Excellency,*

*"In obedience to your excellency's order in council, of the 3d day of July last, referring to a committee thereof, the petitions of Robert Livingston, jun. esq. and of the owners of a certain tract of land called Westenhook, complaining of new claims and encroachments made upon their lands by the inhabitants of Massachusetts Bay, and also the surveyor-general's and the attorney-general's reports on the said two petitions: the committee having maturely weighed and considered of the same, humbly beg leave to report to your excellency:*

*"1st. That they apprehend the claims of Massachusetts Bay to the manor of Livingston, or the said tract of land called Westenhook, cannot be well founded; because they find that the Dutch claimed the colony of New Netherland, as extending from Cape Cod to Cape Cornelius, now called Cape Henlopen, westward of Delaware Bay, along the sea-coast, and as far back into the country as any of the rivers within those limits extend; and that they were*

river, from the sea, to the latitude of  $41^{\circ}$  lies New-Jersey. The line of partition between that province and this, from that latitude to the other station on the Delaware, is unset-

actually possessed of Connecticut river, long before any other European people knew any thing of the existence of such a river, and were not only possessed of the mouth of it, where they had a fort and garrison, but discovered the river above a hundred miles up, had their people trading there, and purchased of the natives almost all the lands on both sides of the said river.

"2dly That governor Stuyvesant, the Dutch governor of the said province, by his letter dated the 2d of September, 1664, new stile, in answer to a letter from governor Richard Nicholls, of the 20-30th August preceding, demanding the surrender of all the forts and places of strength possessed by the Dutch, under his (governor Stuyvesant's) command, writes as follows:—'Moreover it's without dispute, and acknowledged by all the world, that our predecessors, by virtue of the commission and patent of the said lords, the States General, have without controul, and peaceably (the contrary never coming to our knowledge) enjoyed Fort Orange about forty-eight or fifty years, and Manhatans about forty-one or forty-two years; the South river forty years, and the Fresh river about thirty-six years.' Which last mentioned river, the committee find to be the same that is now called Connecticut river.

"3dly. That the said Dutch governor Stuyvesant did, in the year 1664, surrender all the country which the Dutch did then possess to king Charles the second, and that the States General made a cession thereof, by the treaty of Breda, in the year 1667: that the Dutch reconquered part of this province in 1673, and surrendered and absolutely yielded it to king Charles the second, in 1673-4, by the treaty of London; and that in the year 1674, king Charles granted to the duke of York all the land between Connecticut river and Delaware Bay; the whole of these lands being part of the former colony of New Netherland.

"4th. That the duke of York, in his several commissions to major Edmund Andross, on the 1st of July, 1674, and to governor Dongan on the 30th of September, 1682, among other descriptions of the boundaries of this province, mentions all the land from the west side of Connecticut river to the east side of Delaware Bay: that their majesties, king William and queen Mary, by their commission, bearing date the 4th day of January, in the first year of their majesties' reign, appointed Henry Sloughter to be governor of the province of New-York and territories depending thereon; the boundaries whereof to Connecticut river, on the east, were notorious by the grant and other commissions aforesaid, and many other grants and commissions relating to the same.

"5th. That the committee apprehend Connecticut river continued the east bounds of this province until the 28th of March, 1700, when, by king William's confirmation of an agreement between this province and Connecticut, the western bounds of that colony were settled at twenty miles from Hudson's river; and they cannot find any other alteration in the eastern bounds of this province, and have no reason to believe any other was made before or since that time.

"6th. That king James the first, by letters patent, bearing date the 3d of November, in the eighteenth year of his reign, granted unto the council of Plymouth, from forty to forty-eight degrees of north latitude inclusive, in which



ted. From thence, wheresoever it may be fixed, we claim all the lands, on the east side of Delaware, to the north line of Pennsylvania; and all the territory, on both sides of the Mohawks' river, and westward to the isthmus at Niagara: in a word, all the country belonging to the crown of Great

there is a recital to this purpose:—'Now for as much as the king has been certainly given to understand, by divers good subjects, that have for these many years frequented those coasts and territories, between the degrees of 40° and 48°, that there are no other subjects of any christian king or state, or by any authority from their sovereigns, lords, or princes, actually in possession of any the said lands or precincts, whereby any right, claim, interest, or title, may or ought, by that means, to accrue or belong to them,' &c. And also a proviso in these words:—'Provided always, that the said lands, inlands, or any of the premises, by the said letters patent intended or meant to be granted, were not then actually possessed or inhabited by any other christian power or state.' Which patent the committee conceive could not vest any thing in the grantees, by reason of the said recital and condition upon which it was granted; part of the premises being then actually possessed by the Dutch, and most of the said colony of New Netherland being within the bounds thereof.

"7th. That the council of Plymouth, by their deed dated the 19th of March, in the third year of king Charles the first, granted to Sir Henry Roswell and others, part of what was supposed to be granted by the said letters patent, which grant from the said council of Plymouth the committee take to be void, as founded upon the said void patent.

"8th. That he, the said Sir Henry Roswell, and others, obtained a grant and confirmation thereof from the crown, under the great seal of England, dated the 4th of March, in the fourth year of king Charles the first, within which grant and confirmation the province of Massachusetts Bay is included, which grant and confirmation was adjudged void in the high court of chancery of England, in the year 1684. And the committee are of opinion, that nothing to the westward of Connecticut river could pass by that grant and confirmation; for that his majesty could not have had an intention to grant the same, it being then possessed by the Dutch as before mentioned.

"9th. That the committee conceive the inhabitants of Massachusetts Bay can claim nothing at present, but what is granted them by their last charter in 1691; all their other grants and charters being either void of themselves, or declared so in the chancery of England.

"10th. That the bounds granted by this charter are westward as far as the colonies of Rhode Island, Connecticut, and the Narraganset country: which words being in the case of a grant from the crown, the committee conceive cannot extend their bounds farther than to Connecticut colony, and therefore not to Connecticut River, and much less to the westward of it; because Connecticut itself at the time of that charter did not, in the knowledge of the crown, extend westward of that river; nor did till nine years after, when, by the royal approbation, the agreement between this province and that colony taking place, (which was not to be in force till such appro-

Britain, not already granted; for we are to consider New-York among her sister colonies, to borrow a law phrase, as a residuary legatee.

Hence we have, from the beginning, been exposed to controversies about limits. The New-Jersey claim includes

bation) the bounds of that colony were settled as is before mentioned: and the committee conceive it to be against reason to suppose that the crown intended, by the said charter, to grant any part of the province of New-York. under the then immediate government of the crown, without express mention thereof in the charter, and without notification thereof to Henry Sloughter, then governor of this province, that the crown had granted such a part of what was before within his jurisdiction by their majesties' commission aforesaid to him.

"11th. That both the patents under which the petitioners claim, the committee find were granted under the great seal of this province; that of the manor of Livingston in 1686, and that of Westenhook in 1735. And that the lands contained in the said grants are, the committee apprehend, within the jurisdiction of this province, they being both west of Connecticut river.

"12th. That the committee are of opinion, the attempts of the inhabitants of Massachusetts Bay, to make encroachments upon any lands granted by letters patent under the great seal of New-York, or upon any lands within the jurisdiction of this province, are disrespectful to his majesty's authority, tend to the disturbance of the subjects of this province, and may be the cause of great mischiefs and disorders.

"13th. That the steps taken by the said inhabitants, even were the bounds of this province doubtful and unsettled, are intrusions, and disrespectful to his majesty's authority.

"And lastly. The committee are of opinion, that a copy of so much of this report as shall be approved of by your excellency and the council, be transmitted to the lieutenant-governor of the province of Massachusetts Bay, requesting that he would take effectual measures that all encroachments and disturbances, by the people of that colony, on his majesty's subjects of this province, be stayed; and that he would lay this matter before the next general court, that they may inform your excellency by what warrant they claim or exercise any right to soil or jurisdiction westward of Connecticut river; that the same may be considered, and such steps taken towards removing all causes of encroachments, or disturbances, for the future, as may be agreeable to equity and justice, to the end that good understanding may be preserved, which ought to subsist between fellow subjects and neighbouring provinces.

"All which is nevertheless humbly submitted,

"by order of the committee,

"JAMES DE LANCEY, Chairman."

The government of the Massachusetts Bay never exhibited the reasons of their claim, in answer to this report, but continued their encroachments: and in the spring, 1755, surveyed and sold lands lying several miles west of the eastern extent of the manor of Livingston and the patent of Claverack.

several hundred thousand acres, and has not a little impeded the settlement of the colony. The dispute with the Massachusetts Bay is still more important, and, for several years past, occasioned very considerable commotions. The New-Hampshire pretensions have, as yet, exposed us to no great trouble. But when all those claims are settled, a new controversy will probably commence with the proprietaries of Pennsylvania.

This province was, in 1691, divided by an act of assembly, into twelve counties, which I shall describe in their order.

### THE CITY AND COUNTY OF NEW-YORK.

The city of New-York at first included only the island called by the Indians Manhatans; Manning's Island, the two Barn Islands and the three Oyster Islands were in the county; but the limits of the city have since been augmented by charter. The island is very narrow, not a mile wide at a medium, and about fourteen miles in length. The southwest point projects into a fine spacious bay, nine miles long, and about four in breadth; at the confluence of the waters of Hudson's river and the strait between Long-Island and the northern shore. The Narrows, at the south end of the bay, is scarce two miles wide, and opens the ocean to full view. The passage up to New-York from Sandy Hook, a point that extends farthest into the sea, is safe, and not above five and twenty miles in length. The common navigation is between the east and west banks, in two or three and twenty feet water. But it is said that an eighty gun ship may be brought up, through a narrow, winding, unfrequented channel, between the north end of the east bank and Coney Island.

The city has, in reality, no natural basin or harbour. The ships lie off in the road, on the east side of the town, which is docked out, and better built than the west side, because the freshets in Hudson's river fill it in some winters with ice.

The city of New-York, as I have elsewhere had occasion

to mention, "consists of about two thousand five hundred buildings. It is a mile in length, and not above half that in breadth. Such is its figure, its centre of business, and the situation of the houses, that the mean cartage, from one part to another, does not exceed above one quarter of a mile, than which nothing can be more advantageous to a trading city."

It is thought to be as healthy a spot as any in the world. The east and south parts, in general, are low, but the rest is situated on a dry, elevated, soil. The streets are irregular, but being paved with round pebbles are clean, and lined with well built brick houses, many of which are covered with tiled roofs.

No part of America is supplied with markets abounding with greater plenty and variety. We have beef, pork, mutton, poultry, butter, wild fowl, venison, fish, roots, and herbs, of all kinds, in their seasons. Our oysters are a considerable article in the support of the poor. Their beds are within view of the town; a fleet of two hundred small craft are often seen there, at a time, when the weather is mild in winter; and this single article is computed to be worth annually 10 or £12,000.

This city is the metropolis and grand mart of the province, and, by its commodious situation, commands also all the trade of the western part of Connecticut and that of east Jersey. "No season prevents our ships from launching out into the ocean. During the greatest severity of winter, an equal, unrestrained activity, runs through all ranks, orders, and employments."

Upon the south-west point of the city stands the fort, which is a square with four bastions. Within the walls is the house in which our governors usually reside; and opposite to it brick barracks, built formerly for the independent companies. The governor's house is in height three stories, and fronts to the west; having, from the second story, a fine prospect of the bay and the Jersey shore. At the south end there was formerly a chapel, but this was burnt down in the negro

conspiracy of the spring, 1741. According to governor Burnet's observations, this fort stands on the latitude of 40° 42' north.

Below the walls of the garrison, near the water, we have lately raised a line of fortifications, which commands the entrance into the eastern road and the mouth of Hudson's river. This battery is built of stone, and the merlons consist of cedar joists, filled in with earth. It mounts ninety-two cannon, and these are all the works we have to defend us. About six furlongs south-east of the fort, lies Notten Island, containing about one hundred or one hundred and twenty acres, reserved by an act of assembly as a sort of demesne for the governors, upon which it is proposed to erect a strong castle, because an enemy might from thence easily bombard the city, without being annoyed either by our battery or the fort. During the late war, a line of palisadoes was run from Hudson's to the East river, at the other end of the city, with block-houses at small distances. The greater part of these still remain as a monument of our folly, which cost the province about £8,000.

The inhabitants of New-York are a mixed people, but mostly descended from the original Dutch planters. There are still two churches in which religious worship is performed in that language. The old building is of stone and ill built, ornamented within by a small organ loft and brass branches. The new church is a high, heavy edifice, has a very extensive area, and was completed in 1729. It has no galleries, and yet will perhaps contain a thousand or twelve hundred auditors. The steeple of this church affords a most beautiful prospect, both of the city beneath and the surrounding country. The Dutch congregation is more numerous than any other, but as the language becomes disused, it is much diminished; and unless they change their worship into the English tongue, must soon suffer a total dissipation. They have at present two ministers—the Reverend Messieurs Ritzma and De Ronde, who are both strict Calvinists. Their church was incorporated on the 11th of May, 1696,

by the name of *The Minister, Elders, and Deacons, of the Reformed Protestant Dutch Church of the City of New-York*, and its estate, after the expiration of sundry long leases, will be worth a very great income.\*

All the Low Dutch congregations, in this and the province of New Jersey, worship after the manner of the reformed churches in the United Provinces. With respect to government, they are in principle presbyterians; but yet hold themselves in subordination to the Classis of Amsterdam, who sometimes permit and at other times refuse them the powers of ordination. Some of their ministers consider such a subjection as anti-constitutional, and hence, in several of their late annual conventions at New-York, called the Cœtus, some debates have arisen amongst them; the majority being inclined to erect a Classis, or ecclesiastical judicatory, here for the government of their churches. Those of their ministers who are natives of Europe, are, in general, averse to the project. The expense attending the ordination of their candidates in Holland, and the reference of their disputes to the Classis of Amsterdam, is very considerable; and with what consequences the interruption of their correspondence with the European Dutch would be attended, in case of a war, well deserves their consideration.

There are, besides the Dutch, two episcopal churches in this city, upon the plan of the established church in South Britain. Trinity church was built in 1696, and afterwards enlarged in 1737. It stands very pleasantly upon the banks of Hudson's river, and has a large cemetery on each side, inclosed in the front by a painted pale fence. Before it a long walk is railed off from the Broadway, the pleasantest street of any in the whole town. This building is about one hundred and forty-eight feet long, including the tower and chancel, and seventy-two feet in breadth. The steeple is one hundred and seventy-five feet in height, and over the door facing the river is the following inscription:—

\* Their charter was confirmed by a late act of assembly ratified by his majesty, which recites the VIIIth article of the surrender in 1664.

*PER ANGUSTAM.*

"Hoc Trinitatis Templum fundatum est Anno Regni illustrissimi, supremi, Domini Gulielmi tertii, Dei Gratia, Angliæ, Scotiæ, Franciæ et Hiberniæ Regis, Fidei Defensoris, &c. Octavo, Annoq; Domini 1696.

"Ac voluntariâ quorundam Contributione ac Donis Ædificatum, maximè autem, dilecti Regis Chiliarchæ BENJAMINI FLETCHER, hujus Provinciæ strategæ et Imperatoris, Munificentia animatum et auctum, cujus tempore moderaminis, hujus Civitatis incolæ, Religionem protestantem Ecclesiæ Anglicanæ, ut secundum Legem nunc stabilitæ profitentes, quodam Diplomate, sub Sigillo Provinciæ incorporati sunt, atque alias Plurimas, ex Re suâ familiari, Donationes notabiles eidem dedit."

The church is, within, ornamented beyond any other place of public worship amongst us. The head of the chancel is adorned with an altar-piece, and opposite to it, at the other end of the building, is the organ. The tops of the pillars, which support the galleries, are decked with the gilt busts of angels winged. From the ceiling are suspended two glass branches, and on the walls hang the arms of some of its principal benefactors. The allies are paved with flat stones.

The present rector of this church is the Rev. Mr. Henry Barclay, formerly a missionary among the Mohawks. who receives a £100 a year, levied upon all the other clergy and laity in the city, by virtue of an act of assembly procured by governor Fletcher. He is assisted by Dr. Johnson and Mr. Auchmuty.

This congregation, partly by the arrival of strangers from Europe, but principally by proselytes from the Dutch churches, is become so numerous, that though the old building will contain two thousand hearers, yet a new one was erected in 1752. This, called St. George's chapel,\* is a very neat edifice, faced with hewn stone and tiled. The steeple is

\* The length, exclusive of the chancel, 92 feet, and its breadth 20 feet less.

lofty\* but irregular; and its situation in a new, crowded, and ill-built part of the town.

The rector, churchwardens, and vestrymen of Trinity church are incorporated by an act of assembly, which grants the two last the advowson or right of presentation; but enacts, that the rector shall be instituted and inducted in a manner most agreeable to the king's instructions to the governor, and the canonical right of the bishop of London. Their worship is conducted after the mode of the church of England; and, with respect to government, they are empowered to make rules and orders for themselves, being, if I may use the expression, an independent, ecclesiastical corporation.

The revenue of this church is restricted, by an act of assembly, to £500 per annum; but it is possessed of a real estate, at the north end of the town, which having been lately divided into lots and let to farm, will, in a few years, produce a much greater income.

The presbyterians increasing after lord Cornbury's return to England, called Mr. Anderson, a Scotch minister, to the pastoral charge of their congregation; and Dr. John Nicol, Patrick M'Night, Gilbert Livingston, and Thomas Smith purchased a piece of ground and founded a church, in 1719. Two years afterwards they petitioned colonel Schuyler, who had then the chief command, for a charter of incorporation to secure their estate for religious worship, upon the plan of the church in North-Britain; but were disappointed in their expectations, through the opposition of the episcopal party. They shortly after renewed their request to governor Burnet, who referred the petition to his council. The episcopalians again violently opposed the grant, and the governor, in 1724, wrote upon the subject to the lords of trade for their direction. Counsellor West, who was then consulted, gave his opinion in these words: "Upon consideration of the several acts of uniformity, that have passed in Great Britain, I am of opinion that they do not extend to New-York, and conse-

\* One hundred and seventy-five feet.



quently an act of toleration is of no use in that province ; and therefore, as there is no provincial act for uniformity, according to the church of England, I am of opinion, that, by law, such patent of incorporation may be granted, as by the petition is desired. Richard West, 20th August, 1724."

After several years solicitation for a charter in vain, and fearful that those who obstructed such a reasonable request would watch an opportunity to give them a more effectual wound ; those among the presbyterians, who were invested with the fee simple of the church and ground, "conveyed it, on the 16th of March, 1730, to the moderator of the general assembly of the church of Scotland, and the Commission thereof, the moderator of the presbytery of Edinburgh, the principal of the college of Edinburgh, the professor of divinity therein, and the procurator and agent of the church of Scotland, for the time being, and their successors in office, as a committee of the general assembly." On the 15th of August, 1732, the church of Scotland, by an instrument under the seal of the general assembly, and signed by Mr. Niel Campbell, principal of the university of Glasgow, and moderator of the general assembly and commission thereof ; Mr. James Nesbit, one of the ministers of the gospel at Edinburgh, moderator of the presbytery of Edinburgh ; Mr. William Hamilton, principal of the university of Edinburgh ; Mr. James Smith, professor of divinity therein ; and Mr. William Grant, advocate procurator for the church of Scotland for the time being ; pursuant to an act of the general assembly, dated the 8th of May, 1731, did declare, "That, notwithstanding the aforesaid right made to them and their successors in office, they were desirous that the aforesaid building and edifice and appurtenances thereof, be preserved for the pious and religious purposes for which the same were designed ; and that it should be free and lawful to the presbyterians then residing, or that should at any time thereafter be resident in, or near, the aforesaid city of New-York, in America, or others joining with them to convene, in the foresaid church, for the worship of God

in all the parts thereof, and for the dispensation of all gospel ordinances ; and generally to use and occupy the said church and its appurtenances, fully and freely in all times coming, they supporting and maintaining the edifice and appurtenances at their own charge."

Mr. Anderson was succeeded in April, 1727, by the Rev. Mr. Ebenezer Pemberton, a man of polite breeding, pure morals, and warm devotion ; under whose incessant labours the congregation greatly increased, and was enabled to erect the present edifice in 1748. It is built of stone, railed off from the street, is eighty feet long, and in breadth sixty. The steeple, raised on the south-west end, is in height one hundred and forty-five feet. In the front to the street, between two long windows, is the following inscription, gilt and cut in a black slate six feet in length :—

Auspicante Deo

Hanc Ædem

Cultui divino sacram in perpetuum celebrando,

A. D. MDCCXIX.

Primò fundatam ;

Denuo penitus reparatam et ampliorem et ornatiorē,

AD. MDCCXLVIII

Constructam,

Neo-Eboracenses Presbyteriani

In suum et suorum Usum

Condentes,

In hac votivâ Tabulâ

D D D Q.

\* \* \*

Concordiâ, Amore

Necnon Fidei Cultus et Morum

Puritatem

Suffulta, clariùsq ; exornata,

Annunte Christo,

Longum perduret in Ævum.

Mr. Alexander Cumming, a young gentleman of learning and singular penetration, was chosen colleague to Mr. Pem-

berton, in 1750; but both were dismissed, at their request, about three years afterwards; the former, through indisposition, and the latter, on account of trifling contentions kindled by the bigotry and ignorance of the lower sort of people. These debates continued until they were closed, in April, 1756, by a decision of the synod, to which almost all our presbyterian churches, in this and the southern provinces, are subject. The congregation consists at present of twelve or fourteen hundred souls, under the pastoral charge of the Rev. Mr. David Bostwick, who was lately translated from Jamaica to New-York by a synodical decree. He is a gentleman of a mild, catholic disposition; and being a man of piety, prudence, and zeal, confines himself entirely to the proper business of his function. In the art of preaching he is one of the most distinguished clergymen in these parts. His discourses are methodical, sound, and pathetic; in sentiment, and in point of diction, singularly ornamented. He delivers himself without notes, and yet with great ease and fluency of expression; and performs every part of divine worship with a striking solemnity.

The French church, by the contentions in 1724, and the disuse of the language, is now reduced to an inconsiderable handful. The building which is of stone nearly a square,\* plain both within and without. It is fenced from the street, has a steeple and a bell, the latter of which was the gift of Sir Henry Asshurst of London. On the front of the church is the following inscription:—

ÆDES SACRA  
GALLOR. PROT.  
REFORM.  
FVNDA. 1704.  
PENITVS  
REPAR. 1741.

The present minister, Mr. Carle, is a native of France, and succeeded Mr. Rou in 1754. He bears an irreproachable

\* The area is seventy feet long, and in breadth fifty.

character, is very intent upon his studies, preaches moderate Calvinism, and speaks with propriety, both of pronunciation and gesture.

The German Lutheran churches are two. Both their places of worship are small: one of them has a cupola and bell.

The quakers have a meeting-house, and the Moravians, a new sect amongst us, a church, consisting principally of female proselytes from other societies. Their service is in the English tongue.

The anabaptists assemble at a small meeting-house, but have as yet no regular settled congregation. The jews, who are not inconsiderable for their numbers, worship in a synagogue erected in a very private part of the town, plain without, but very neat within.

The city hall is a strong brick building, two stories in height, in the shape of an oblong, winged with one at each end, at right angles with the first. The floor below is an open walk, except two jails and the jailor's apartments. The cellar underneath is a dungeon, and the garret above a common prison. This edifice is erected in a place where four streets meet, and fronts, to the south-west, one of the most spacious streets in town. The eastern wing, in the second story, consists of the assembly chamber, a lobby, and a small room for the speaker of the house. The west wing, on the same floor, forms the council room and a library; and in the space between the ends the supreme court is ordinarily held.

The library consists of a thousand volumes, which were bequeathed to the Society for the Propagation of the Gospel in Foreign Parts, by Dr. Millington, rector of Newington. Mr. Humphrys, the society's secretary, in a letter of the 23d of September, 1728, informed governor Montgomerie, that the society intended to place these books in New-York, intending to establish a library for the use of the clergy and gentlemen of this and the neighbouring governments of Connecticut, New-Jersey, and Pennsylvania, upon giving security to return them; and desired the governor to recommend it to the

assembly to provide a place to reposit the books, and to concur in an act for the preservation of them and others that might be added. Governor Montgomerie sent the letter to the assembly, who ordered it to be laid before the city corporation, and the latter, in June, 1729, agreed to provide a proper repository for the books, which were accordingly soon after sent over. The greatest part of them are upon theological subjects, and through the carelessness of the keepers many are missing.

In 1754, a set of gentlemen undertook to carry about a subscription towards raising a public library, and in a few days collected near £600, which were laid out in purchasing about seven hundred volumes of new, well-chosen books. Every subscriber upon payment of £5 principal, and the annual sum of ten shillings, is entitled to the use of these books. His right by the articles is assignable, and for non-compliance with them may be forfeited. The care of this library, is committed to twelve trustees, annually elected by the subscribers, on the last Tuesday of April, who are restricted from making any rules repugnant to the fundamental subscription. This is the beginning of a library, which in process of time will probably become vastly rich and voluminous; and it would be very proper for the company to have a charter for its security and encouragement. The books are deposited in the same room with those given by the society.

Besides the city hall, there belong to the corporation, a large alms-house, or place of correction, and the exchange, in the latter of which there is a large room raised upon brick arches, generally used for public entertainments, concerts of music, balls, and assemblies.

Though the city was put under the government of a mayor, &c. in 1665, it was not regularly incorporated till 1686. Since that time, several charters have been passed: the last was granted by governor Montgomerie on the 15th of January 1730.

It is divided into seven wards, and is under the government of a mayor, recorder, seven aldermen, and as many assistants, or common councilmen. The mayor, a sheriff, and coroner are annually appointed by the governor. The recorder has a patent during pleasure. The aldermen, assistants, assessors, and collectors are annually elected by the freemen and freeholders of the respective wards. The mayor has the sole appointment of a deputy, and, together with four aldermen, may appoint a chamberlain. The mayor or recorder, four aldermen, and as many assistants, form "the common council of the city of New-York;" and this body, by a majority of voices, hath power to make by-laws for the government of the city, which are binding only for a year, unless confirmed by the governor and council. They have many other privileges relating to ferriages, markets, fairs, the assize of bread, wine, &c. and the licensing and regulation of tavern keepers, cartage, and the like. The mayor, his deputy, the recorder, and aldermen are constituted justices of the peace; and may hold not only a court of record once a week to take cognizance of all civil causes, but also a court of general quarter sessions of the peace. They have a common clerk, commissioned by the governor, who enjoys an appointment worth about four or five hundred pounds per annum. The annual revenue of the corporation is near two thousand pounds. The standing militia of the island consists of about 2,300 men,\* and the city has in reserve, a thousand stand of arms for seamen, the poor and others, in case of an invasion.

The north-eastern part of New-York island is inhabited principally by Dutch farmers, who have a small village there called Harlem, pleasantly situated on a flat cultivated for the city markets.

\* The whole number of the inhabitants exclusive of females above sixty, according to a list returned to the governor in the spring 1756, amounted to 10,468 whites, and 2,275 negroes; but that account is erroneous. It is most probable that there are in the city 15,000 souls.

## WEST-CHESTER.

This county is large, and includes all the land beyond the island of Manhatans along the sound, to the Connecticut line, which is its eastern boundary. It extends northward to the middle of the highlands, and westward to Hudson's river. A great part of this county is contained in the manors of Philipsburgh, Pelham, Fordham, and Courtlandt, the last of which has the privilege of sending a representative to the general assembly. The county is tolerably settled; the lands are in general rough but fertile, and therefore the farmers run principally on grazing. It has several towns, East-Chester, West-Chester, New-Rochelle, Rye, Bedford, and North-Castle. The inhabitants are either English or Dutch presbyterians, episcopalians, quakers, and French protestants; the former are the most numerous. The two episcopal missionaries are settled at Rye and East-Chester, and receive each £60 annually, taxed upon the county. The town of West-Chester is an incorporated borough, enjoying a mayor's court, and the right of being represented by a member in assembly.

## DUTCHESS.

This county adjoins to West-Chester, which bounds it on the south, the Connecticut line on the east,\* Hudson's river on the west, and the county of Albany on the north. The south part of this county is mountainous and fit only for iron works, but the rest contains a great quantity of good upland well watered. The only villages in it are Poghkeepsing and the Fish-Kill, though they scarce deserve the name. The inhabitants on the banks of the river are Dutch, but those more easterly Englishmen, and for the most part, emigrants from Connecticut and Long Island. There is no episcopal church in it. The growth of this county has been

\* In describing the limits of the several counties, I regard their bounds according to the jurisdiction as now exercised in each, rather than the laws relating to them, which are very imperfect, especially the general act in 1691. The greatest part of Hudson's river is not included in any of our counties.

very sudden, and commenced but a few years ago. Within the memory of persons now living, it did not contain above twelve families; and according to the late returns of the militia, it will furnish at present above 2500 fighting men.

#### ALBANY.

This county extends from the south bounds of the manor of Livingston on the east side, and Ulster on the west side of Hudson's river; on the north its limits are not yet ascertained. It contains a vast quantity of fine low land. Its principal commodities are wheat, peas, and pine boards.

The city of Albany, which is near 150 miles from New-York, is situated on the west side of the river. There our governors usually treat with the Indian dependents upon the British crown. The houses are built of brick in the Dutch taste, and are in number about 350. There are two churches in it. That of the episcopalians, the only one in this large county, is a stone building, the congregation is but small, almost all the inhabitants resorting to the Dutch church, which is a plain, square, stone edifice; besides these they have no other public buildings except the city hall and the fort; the latter of which is a stone square, with four bastions, situated on an eminence which overlooks the town, but is itself commanded by higher ground. The greatest part of the city is fortified only by palisadoes, and in some places there are small cannon planted in block-houses. Albany was incorporated by colonel Dongan in 1686, and is under the government of a mayor, recorder, six aldermen, and as many assistants. It has also a sheriff, town clerk, chamberlain, clerk of the markets, one high constable, three sub-constables, and a marshal. The corporation is empowered besides to hold a mayor's court for the trial of civil causes, and a court of general quarter sessions.

Sixteen or eighteen miles north-west from Albany lies Schenectady, on the banks of the Mohawks' branch, which falls into Hudson's river twelve miles to the north of Albany. This village is compact and regular, built principally of brick,



on a rich flat of low land surrounded with hills. It has a large Dutch church with a steeple and town clock near the centre. The windings of the river through the town and the fields (which are often overflowed in the spring) form, about harvest, a most beautiful prospect. The lands in the vale of Schenectady are so fertile that they are commonly sold at £45 per acre. Though the farmers use no kind of manure, they till the fields every year, and they always produce full crops of wheat or peas. Their church was incorporated by governor Cosby, and the town has the privilege of sending a member to the assembly.

From this village our Indian traders set out in battoes for Oswego. The Mohawks' river, from hence to fort Hunter, abounds with rifts and shoals, which in the spring give but little obstruction to the navigation. From thence to its head, or rather to the portage into the Wood Creek, the conveyance is easy, and the current less rapid. The banks of this river are in general low, and the soil exceeding good. Our settlements on the north side extend to Burnet's field, a flat inhabited by Germans, which produces wheat and peas in surprising plenty. On the south side, except a few Scotch-Irish in Cherry Valley, at the head of the Susquehanna, we have but few farms west of the three German towns on Schohare, a small creek which empties itself into the Mohawks' river, about twenty miles west of Schenectady. The fur trade at Oswego is one of the principal advantages of this county. The Indians resort thither in May, and the trade continues till the latter end of July. A good road might be made from Schenectady to Oswego. In the summer of 1755, fat cattle were easily driven there for the army under the command of general Shirley.

The principal settlements to the northward of Albany are Connestigiune, eastward of Schenectady on the Mohawks' river, which, a little lower, tumbles down a precipice of about seventy feet high, called the Cahoes. The surprise which, as one might imagine, would naturally be excited by the view of so great a cataract, is much diminished by the

height of the banks of the river ; besides, the fall is as uniform as a mill-dam, being uninterrupted by the projection of rocks.

At Scaghtahook, on the east side of the north branch of Hudson's river, there are a few farms, but many more several miles to the eastward, and about twenty-five miles from Albany in the patent of Hosick. These were all broke up by an irruption of French and Indians, who, on the 28th of August 1754, killed and scalped two persons, and set fire to the houses and barns.

About forty miles to the northward of Albany, on the west side of the river, lies Saratoga, a fine tract of low land, from which several families were driven by the French Indians in the late war. A project of purchasing these lands from the proprietors, settling them with Indians, raising a fort there, and cultivating the soil for them, has been often talked of since captain Campbell's disappointment, as a proper expedient to curb the scalping parties sent out from Crown Point.

In the southern part of the county of Albany, on both sides of Hudson's river, the settlements are very scattered, except within twelve miles of the city, when the banks become low and accessible. The islands here, which are many, contain perhaps the finest soil in the world.

There are two manors in the county, Renslaerwick and Livingston, which have each the privilege of sending a member to the assembly. The tenants of these manors, and of the patents of Claverack, have free farms at the annual rent of a tenth of the produce, which has as yet been neither exacted nor paid. At Ancram, in the manor of Livingston, is an iron furnace about fourteen miles from the river : its best and most improved lands lie at Tachanic in the eastern parts, which have of late been much disturbed by the inroads of the Massachusetts Bay, on this and the patents of Westernhook and Claverack.

The winters in this county are commonly severe, and Hudson's river freezes so hard a hundred miles to the southward of Albany, as to bear sleds loaded with great burdens.

Much snow is very serviceable to the farmers here, not only in protecting their grain from the frost, but in facilitating the transportation of their boards and other produce to the banks of the river against the ensuing spring.

#### ULSTER.

This county joins to that of Albany, on the west side of Hudson's river. Its northern extent is fixed at Sawyer's mill: the rivers Delaware and Hudson bound it east and west, and a west line from the mouth of Murderer's creek is its southern limit.

The inhabitants are Dutch, French, English, Scotch, and Irish, but the first and the last are most numerous. The episcopallians in this county are so inconsiderable that their church is only a mean log-house. The most considerable town is Kingston, situated about two miles from Hudson's river. It contains about 150 houses mostly of stone, is regularly laid out on a dry level spot, and has a large stone church and court-house near the centre. It is thought to resemble Schenectady, but far exceeds it in its elevation: on the north side of the town the Esopus kill winds through rich and beautiful lawns. The people of Ulster having long enjoyed an undisturbed tranquillity, are some of the most opulent farmers in the whole colony.

This county is most noted for fine flour, beer, and a good breed of draught horses. At the commencement of the range of the Apalachian hills, about ten miles from Hudson's river, is an inexhaustible quarry of millstones, which far exceed those from Colen in Europe, formerly imported here, and sold at £80 a pair. The Marbletown millstones cost not a fourth part of that sum. This, and the counties of Dutchess and Orange, abound with lime-stone, and on the banks of Hudson's river are found great bodies of blue slate.

The principal villages, besides Kingston, are Marbletown, Hurley, Rochester, New Paltz, and the Walkill, each of which is surrounded with fine tracts of low land. The militia of Ulster is about 15 or 1600 men and a company of horse.

## ORANGE

County is divided by a range of mountains, stretching westward from Hudson's river, called the Highlands. On the north side the lands are very broken but fertile, and inhabited by Scotch, Irish, and English presbyterians. The society's missionary in Ulster preaches here sometimes to a small congregation of the episcopal persuasion, which is the only one in the county. Their villages are Goshen, Bethlehem, and Little Britain, all remarkable for producing, in general, the best butter made in the colony. The people on the south side of the mountains are all Dutch; and Orange town, more commonly called by the Indian name Tappan, is a small but very pleasant inland village with a stone courthouse and church. The militia consists of about 1300 fighting men.

This county joins to the province of New-Jersey on the south; and the non-settlement of the partition line has been the greatest obstruction to its growth.

There is a very valuable tract called the Drowned Lands on the north side of the mountains, containing about 40 or 50,000 acres. The waters which descend from the surrounding hills, being but slowly discharged by the river issuing out of it, cover these vast meadows every winter, and hence they become extremely fertile. The fires, kindled up in the woods by the deer hunters in autumn, are communicated by the leaves to these meadows before the waters rise above the channel of the river, and a dreadful devouring conflagration overruns it, consuming the herbage for several days. The Walkill river, which runs through this extensive amphibious tract, if I may use the expression, is in the spring stored with eels of uncommon size and plenty, very useful to the farmers residing on its banks. The river is about two chains in breadth, where it leaves the drowned lands, and has a considerable fall. The bottom of it is a broken rock, and I am informed by Mr. Clinton, a gentleman of ingenuity and a mathematical turn, that the channel might for less than £2000 be sufficiently deepened to draw off all the water from

the meadows. Some parts near the banks of the upland have been already redeemed from the floods ; these spots are very fertile, and produce English grass, hemp, and Indian corn.

The mountains in the county of Orange are clothed thick with timber, and abound with iron ore, ponds, and fine streams for iron works. Goshen is well supplied with white cedar, and in some parts of the woods is found great plenty of black walnut.

Before I proceed to the description of the southern counties I beg leave to say a few words concerning Hudson's river.

Its source has not as yet been discovered ; we know in general that it is in the mountainous, uninhabited country, between the lakes Ontario and Champlain. In its course southward it approaches the Mohawks' river within a few miles at Saucondauga ; from thence it runs north and northeasterly towards lake St. Sacrement, now called lake George, and is not above eight or ten miles distant from it ; the course then to New-York is very uniform, being in the main south twelve or fifteen degrees west.

The distance from Albany to lake George is computed at sixty-five miles : the river in that interval is navigable only to Batteaus, and interrupted by rifts, which occasion two portages of half a mile each.\* There are three routes from Crown Point to Hudson's river in the way to Albany ; one through lake George, another through a branch of lake Champlain, bearing a southern course, and terminating in a bason several miles east of lake George, called the South Bay. The third is by ascending the Wood Creek, a shallow stream about one hundred feet broad, which, coming from the south-east, empties itself into the south branch of the lake Champlain.

The place where these routes meet on the banks of Hudson's river, is called the Carrying Place : here fort Lyman, since called fort Edward, is built ; but fort William Henry, a much stronger garrison, was erected at the south end of lake

\* In the passage from Albany to fort Edward, the whole land carriage is about twelve or thirteen miles.

George, after the repulse of the French forces under the command of baron Dieskau on the 8th of September, 1755: general Shirley thought it more advisable to strengthen fort Edward in the concurrence of three routes, than to erect the other at lake George seventeen miles to the northward of it; and wrote a very pressing letter upon that head to sir William Johnson, who then commanded the provincial troops.

The banks of Hudson's river are for the most part rocky cliffs, especially on the western shore. The passage through the highlands affords a wild romantic scene for sixteen miles through steep and lofty mountains: the tide flows a few miles above Albany, the navigation is safe, and performed in sloops of about forty or fifty tons burden, extremely well accommodated to the river: about sixty miles above the city of New-York the water is fresh, and in wet seasons much lower; the river is stored with variety of fish, which renders a summer's passage to Albany exceedingly diverting to such as are fond of angling.

The advantages of this river for penetrating into Canada, and protecting the southern colonies from the irruptions of the French, by securing the command of the lakes, and cutting off the communication between the French settlements on St. Lawrence and the Mississippi, though but lately attended to, must be very apparent to every judicious observer of the maps of the inland part of North America.

The French, as appears from the intended invasion in 1689, have long eyed the English possession of this province with jealousy, and it becomes us to fall upon every method for its protection and defence.

The singular conveniency of Hudson's river, to this province in particular, was so fully shown in one of the late papers, published in 1753, under the title of the Independent Reflector, that I cannot help reprinting the passage relating to it.

"High roads, which in most trading countries, are extremely expensive, and awake a continual attention for their reparation, demand from us, comparatively speaking, scarce any public notice at all. The whole province is contained

in two narrow oblongs, extending from the city east and north, having water carriage from the extremity of one, and from the distance of one hundred and sixty miles of the other, and, by the most accurate calculation has not, at a medium, above twelve miles of land carriage throughout its whole extent. This is one of the strongest motives to the settlement of a new country, as it affords the easiest and most speedy conveyance from the remotest distances, and at the lowest expence. The effects of this advantage are greater than we usually observe, and are therefore not sufficiently admired.

"The province of Pennsylvania, has a fine soil, and through the importations of Germans, abounds with inhabitants; but being a vast inland country, its produce must, of consequence, be brought to a market over a great extent of ground, and all by land carriage. Hence it is, that Philadelphia is crowded with wagons, carts, horses, and their drivers; a stranger at his first entrance would imagine it to be a place of traffic, beyond any one town in the colonies, while, in New-York in particular, to which the produce of the country is all brought by water, there is more business, at least business of profit, though with less show and appearance. Not a boat in our river is navigated with more than two or three men at most; and these are perpetually coming in from and returning to all parts of the adjacent country, in the same employments that fill the city of Philadelphia with some hundreds of men, who, in respect to the public advantage, may justly be said to be laboriously idle: for, let any one nicely compute the expence of a wagon with its tackling, the time of two men in attending it, their maintenance, four horses, and the charge of their provender, on a journey of one, though they often come two hundred miles, and he will find these several particulars amount to a sum far from being inconsiderable. All this time the New-York farmer is in the course of his proper business, and the unincumbered acquisitions of his calling; for at a medium, there is scarce a farmer in the province that cannot transport the fruits of a year's labour from the best

farm in three days, at a proper season, to some convenient landing, where the market will be to his satisfaction, and all the wants from the merchant cheaply supplied; besides which, one boat shall steal into the harbour of New-York, with a lading of more burden and value than forty wagons, one hundred and sixty horses, and eighty men into Philadelphia; and perhaps with less noise, bluster, or show than one.

"Prodigious is the advantage we have in this article alone, I shall not enter into an abstruse calculation to evince the exact value of it in all the lights in which it may be considered; thus much is certain, that barely on account of our easy carriage, the profits of farming with us exceed those in Pennsylvania at least by thirty per cent.; and that difference, in favour of our farmers, is of itself sufficient to enrich them: while the others find the disadvantage they are exposed to so heavy, (especially the remote inhabitants of their country,) that a bare subsistence is all they can reasonably hope to obtain. Take this province throughout, the expense of transporting a bushel of wheat is but two pence for the distance of one hundred miles, but the same quantity at the like distance in Pennsylvania, will always exceed one shilling at least. The proportion between us in the conveyance of every thing else is nearly the same; how great then are the incumbrances to which they are exposed! What an immense charge is saved to us! how sensible must the embarrassments they are subject to be to a trading people!"

#### RICHMOND

County consists of Staten Island, which lies nine miles south-westward from the city of New-York. It is about eighteen miles long, and at a medium six or seven in breadth, on the south side is a considerable tract of good level land, but the island is in general rough, and the hills high; the inhabitants are principally Dutch and French, the former have a church, but the latter having been long without a minister, resort to an episcopal church in Richmond town, a poor mean village and the only one on the island, the parson



of the parish receives £40 per annum, raised by a tax upon the county.

Southward of the main coast of this and the colony of Connecticut lies Long Island, called by the Indians Matowacs, and named, according to an act of assembly in king William's reign, Nassau; its length is computed at one hundred and twenty miles, and the mean breadth twelve. The lands on the north and south side are good, but in the middle, sandy and barren; the southern shore is fortified against any invasion from the sea by a beach inaccessible to ships, and rarely to be approached, even by the smallest long-boats, on account of the surge which breaks upon it with great fury, even when the winds are light. The coast, east and west, admits of regular soundings far into the ocean, and as the lands are in general low for several hundred miles, nothing can be more advantageous to our ships than the high lands of Neversink, near the entrance at the Hook, which are scarce six miles in length, and often seen thirty leagues from the sea; this island affords the finest roads in America, it being very level and but indifferently watered: it is divided into three counties.

## KINGS

County lies opposite to New-York, on the north side of Long Island; the inhabitants are all Dutch, and enjoying a good soil, near our markets, are generally in easy circumstances. The county, which is very small, is settled in every part, and contains several pleasant villages, viz. Bushwick, Breucklin, Bedford, Flat-Bush, Flat-Lands, New-Utrecht, and Gravesend.

## QUEENS

County is more extensive, and equally well settled: the principal towns are Jamaica, Hempstead, Flushing, Newtown, and Oysterbay. Hempstead plain is a large, level.

dry, champaign heath, about sixteen miles long and six or seven wide, a common land belonging to the towns of Oysterbay and Hempstead. The inhabitants are divided into Dutch and English presbyterians, episcopalians, and quakers.

There are but two episcopal missionaries in this county, one settled at Jamaica, and the other at Hempstead; and each of them receives £60 annually, levied upon all the inhabitants.

## SUFFOLK

Includes all the eastern part of Long Island, Shelter Island, Fisher's Island, Plumb Island, and the Isle of White. This large county has been long settled, and, except one small episcopal congregation, consists entirely of English presbyterians. Its principal towns are Huntington, Smithtown, Brookhaven, Southampton, Southhold, and Easthampton. The farmers are for the most part graziers, and living very remote from New-York, a great part of their produce is carried to markets in Boston and Rhode-Island. The Indians, who were formerly numerous on this island, are now become very inconsiderable. Those that remain, generally bind themselves servants to the English. The whale fishery, on the south side of the island, has declined of late years, through the scarcity of whales, and is now almost entirely neglected.

The Elizabeth islands, Nantucket, Martin's vineyard, &c. and Pemy Quid, which anciently formed Duke's and the county of Cornwall, are now under the jurisdiction of the Massachusetts Bay. Sir William Phips demanded them of governor Fletcher, in February 1692-3, not long after the new charter to that province; but the government here was then of opinion, that, that colony was not entitled to any islands westward of Nantucket.

An estimate of the comparative wealth of our counties, may be formed from any of our assessments. In a £10,000

part of a £45,000 tax laid in 1755, the proportions settled by an act of assembly stood thus :—

New-York.....	£3,332
Albany.....	1,060
King's.....	484
Queen's.....	1,000
Suffolk.....	860
Richmond.....	304
West-Chester.....	1,000
Ulster.....	860
Dutchess.....	800
Orange.....	300
	<hr/>
	£10,000

## CHAPTER II.

### OF THE INHABITANTS.

THIS province is not so populous as some have imagined. Scarce a third part of it is under cultivation. The colony of Connecticut, which is vastly inferior to this in its extent, contains, according to a late authentic enquiry, above 133,000 inhabitants, and has a militia of 27,000 men; but the militia of New-York, according to the general estimate, does not exceed 18,000. The whole number of souls is computed at 100,000.

Many have been the discouragements to the settlement of this colony. The French and Indian irruptions, to which we have always been exposed, have driven many families into New-Jersey. At home, the British acts for the transportation of felons, have brought all the American colonies into discredit with the industrious and honest poor, both in the kingdoms of Great Britain and Ireland. The mischiev-

ous tendency of those laws was shown in a late paper, which it may not be improper to lay before the reader.\*

"It is too well known that, in pursuance of divers acts of parliament, great numbers of fellows who have forfeited their lives to the public, for the most atrocious crimes, are annually transported from home to these plantations. Very surprising one would think, that thieves, burglars, pickpockets, and cut-purses, and a herd of the most flagitious banditti upon earth, should be sent as agreeable companions to us ! That the supreme legislature did intend a transportation to America, for a punishment of these villains, I verily believe : but so great is the mistake, that confident I am, they are thereby, on the contrary, highly rewarded. For what, in God's name, can be more agreeable to a penurious wretch, driven, through necessity, to seek a livelihood by breaking of houses, and robbing upon the king's highway, than to be saved from the halter, redeemed from the stench of a gaol and transported, passage free, into a country, where, being unknown, no man can reproach him with his crimes ; where labour is high, a little of which will maintain him ; and where all his expenses will be moderate and low. There is scarce a thief in England, that would not rather be transported than hanged. Life in any condition, but that of extreme misery, will be preferred to death. As long, therefore, as there remains this wide door of escape, the number of thieves and robbers at home will perpetually multiply, and their depredations be incessantly reiterated.

But the acts were intended, *for the better peopling the colonies.* And will thieves and murderers be conducive to that end ? What advantage can we reap from a colony of unrestrainable renegadoes ? will they exalt the glory of the crown ? or rather, will not the dignity of the most illustrious monarch in the world be sullied by a province of subjects so lawless, detestable, and ignominious ? Can agriculture

\* The Independent Reflector.

be promoted, when the *wild boar of the forest breaks down our hedges and pulls up our vines?* Will trade flourish, or manufactures be encouraged, where property is made the spoil of such who are too idle to work, and wicked enough to murder and steal?

“ Besides, are we not subjects of the same king, with the people of England; members of the same body politic, and therefore entitled to equal privileges with them? If so, how injurious does it seem to free one part of the dominions from the plagues of mankind, and cast them upon another? Should a law be proposed to take the poor of one parish, and billet them upon another, would not all the world, but the parish to be relieved, exclaim against such a project, as iniquitous and absurd? Should the numberless villains of London and Westminster be suffered to escape from their prisons, to range at large and depredate any other part of the kingdom, would not every man join with the sufferers, and condemn the measure as hard and unreasonable? And though the hardships upon us, are indeed not equal to those, yet the miseries that flow from laws, by no means intended to prejudice us, are too heavy, not to be felt. *But the colonies must be peopled.* Agreed: and will the transportation acts ever have that tendency? No; they work the contrary way, and counteract their own design. We want people 'tis true, but not villains, ready at any time, encouraged by impunity, and habituated upon the slightest occasions, to cut a man's throat for a small part of his property. The delights of such company is a noble inducement, indeed, to the honest poor, to convey themselves into a strange country. Amidst all our plenty, they will have enough to exercise their virtues, and stand in no need of the association of such as will prey upon their property, and gorge themselves with the blood of the adventurers. They came over in search of happiness; rather than starve will live any where, and would be glad to be excused from so afflicting an antepart of the torments of hell. In reality, sir, these very laws, though otherwise designed, have turned out, in the end, the most

effectual expedients that the art of man could have contrived, to prevent the settlement of these remote parts of the king's dominions. They have actually taken away almost every encouragement to so laudable a design. I appeal to facts. The body of the English are struck with terror at the thought of coming over to us, not because they have a vast ocean to cross, or leave behind them their friends; or that the country is new and uncultivated: but from the shocking ideas, the mind must necessarily form, of the company of inhuman savages, and the more terrible herd of exiled malefactors. There are thousands of honest men, labouring in Europe, at four pence a day, starving in spite of all their efforts, a dead weight to the respective parishes to which they belong; who, without any other qualifications than common sense, health, and strength, might accumulate estates among us, as many have done already. These, and not the others, are the men that should be sent over for the *better peopling the plantations*. Great Britain and Ireland, in their present circumstances, are overstocked with them; and he who would immortalize himself, for a *lover of mankind*, should concert a scheme for the transportation of the industriously honest abroad, and the immediate punishment of rogues and plunderers at home. The pale-faced, half-clad, meagre, and starved skeletons, that are seen in every village of those kingdoms, call loudly for the patriot's generous aid. The plantations too, would thank him for his assistance, in obtaining the repeal of those laws which, though otherwise intended by the legislature, have so unhappily proved injurious to his own country, and ruinous to us. It is not long since a bill passed the commons, for the employment of such criminals in his majesty's docks, as should merit the gallows. The design was good. It is consistent with sound policy, that all those, who have forfeited their liberty and lives to their country, should be compelled to labour the residue of their days in its service. But the scheme was bad, and wisely was the bill rejected by the lords, for this only reason, that it had a *natural tendency*

*to discredit the king's yards*: the consequences of which must have been prejudicial to the whole nation. Just so ought we to reason in the present case, and we should then soon be brought to conclude, that though peopling the colonies, which was the laudable motive of the legislature, be expedient to the public, abrogating the transportation laws must be equally necessary."

The bigotry and tyranny of some of our governors, together with the great extent of their grants, may also be considered among the discouragements against the full settlement of the province. Most of these gentlemen coming over with no other view than to raise their own fortunes, issued extravagant patents, charged with small quit-rents, to such as were able to serve them in the assembly; and these patentees, being generally men of estates, have rated their lands so exorbitantly high, that very few poor persons could either purchase or lease them. Add to all these, that the New-England planters have always been disaffected to the Dutch; nor was there, after the surrender, any foreign accession from the Netherlands. The province being thus poorly inhabited, the price of labour became so enormously enhanced, that we have been constrained to import negroes from Africa, who are employed in all kinds of servitude and trades.

English is the most prevailing language amongst us, but not a little corrupted by the Dutch dialect, which is still so much used in some counties, that the sheriffs find it difficult to obtain persons, sufficiently acquainted with the English tongue, to serve as jurors in the courts of law.

The manners of the people differ as well as their language. In Suffolk and Queen's county, the first settlers of which were either natives of England, or the immediate descendants of such as begun the plantations in the eastern colonies, their customs are similar to those prevailing in the English counties from whence they originally sprang. In the city of New-York, through our intercourse with the Europeans, we follow the London fashions; though, by the

time we adopt them, they become disused in England. Our affluence, during the late war, introduced a degree of luxury in tables, dress, and furniture, with which we were before unacquainted. But still we are not so gay a people as our neighbours in Boston, and several of the southern colonies. The Dutch counties, in some measure, follow the example of New-York, but still retain many modes peculiar to the Hollanders.

The city of New-York consists principally of merchants, shopkeepers, and tradesmen, who sustain the reputation of honest, punctual, and fair dealers. With respect to riches, there is not so great an inequality amongst us as is common in Boston and some other places. Every man of industry and integrity has it in his power to live well, and many are the instances of persons who came here distressed by their poverty, who now enjoy easy and plentiful fortunes.

New-York is one of the most social places on the continent. The men collect themselves into weekly evening clubs. The ladies, in winter, are frequently entertained either at concerts of music or assemblies, and make a very good appearance. They are comely and dress well, and scarce any of them have distorted shapes. Tinctured with a Dutch education, they manage their families with becoming parsimony, good providence, and singular neatness. The practice of extravagant gaming, common to the fashionable part of the fair sex, in some places, is a vice with which my countrywomen cannot justly be charged. There is nothing they so generally neglect as reading, and indeed all the arts for the improvement of the mind, in which, I confess, we have set them the example. They are modest, temperate, and charitable; naturally sprightly, sensible, and good-humoured; and, by the helps of a more elevated education, would possess all the accomplishments desirable in the sex. Our schools are in the lowest order—the instructors want instruction; and, through a long shameful neglect of all the arts and sciences, our common speech is extremely corrupt, and the evidences of a bad taste, both as to thought



and language, are visible in all our proceedings, public and private.

The people, both in town and country, are sober, industrious, and hospitable, though intent upon gain. The richer sort keep very plentiful tables, abounding with great varieties of flesh, fish, fowl, and all kinds of vegetables. The common drinks are beer, cider, weak punch, and Madeira wine. For dessert, we have fruits in vast plenty, of different kinds and various species.

Gentlemen of estates rarely reside in the country, and hence few or no experiments have yet been made in agriculture. The farms being large, our husbandmen, for that reason, have little recourse to art for manuring and improving their lands; but it is said, that nature has furnished us with sufficient helps, whenever necessity calls us to use them. It is much owing to the disproportion between the number of our inhabitants, and the vast tracts remaining still to be settled, that we have not, as yet, entered upon scarce any other manufactures than such as are indispensably necessary for our home convenience. Felt-making, which is perhaps the most natural of any we could fall upon, was begun some years ago, and hats were exported to the West-Indies with great success, till lately prohibited by an act of parliament.

The inhabitants of this colony are in general healthy and robust, taller but shorter lived than Europeans, and, both with respect to their minds and bodies, arrive sooner to an age of maturity. Breathing a serene, dry air, they are more sprightly in their natural tempers than the people of England, and hence instances of suicide are here very uncommon. The history of our diseases belongs to a profession with which I am very little acquainted. Few physicians amongst us are eminent for their skill. Quacks abound like locusts in Egypt, and too many have recommended themselves to a full practice and profitable subsistence. This is the less to be wondered at, as the profession is under no kind of regulation. Loud as the call is, to our shame be it remembered, we have no law to protect the lives of the

king's subjects from the malpractice of pretenders. Any man at his pleasure sets up for physician, apothecary, and chirurgion. No candidates are either examined or licensed, or even sworn to fair practice.\* The natural history of this province would of itself furnish a small volume; and, therefore, I leave this also to such as have capacity and leisure to make useful observations, in that curious and entertaining branch of natural philosophy.

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### CHAPTER III.

#### OF OUR TRADE.

THE situation of New-York, with respect to foreign markets, for reasons elsewhere assigned, is to be preferred to any of our colonies. It lies in the centre of the British plantations on the continent, has at all times a short easy access to the ocean, and commands almost the whole trade of Connecticut and New-Jersey, two fertile and well-cultivated colonies. The projection of Cape Cod into the Atlantic, renders the navigation from the former to Boston, at some seasons, extremely perilous; and sometimes the coasters are driven off, and compelled to winter in the West-Indies. But the conveyance to New-York, from the eastward, through the sound, is short and unexposed to such dangers. Philadelphia receives as little advantage from New-Jersey, as Boston from Connecticut, because the only rivers which roll through that province disembogue not many miles from the very city of New-York. Several attempts have been made to raise Perth Amboy into a trading port, but hitherto it has proved to be an unfeasible project. New-York, all things

\* The necessity of regulating the practice of physic, and a plan for that purpose, were strongly recommended by the author of the Independent Reflector, in 1753, when the city of New-York alone boasted the honour of having above forty gentlemen of that faculty.

considered, has a much better situation, and, were it otherwise, the city is become too rich and considerable to be eclipsed by any other town in its neighbourhood.

Our merchants are compared to a hive of bees, who industriously gather honey for others—*Non vobis mellificatis apes*. The profits of our trade centre chiefly in Great Britain and for that reason, methinks, among others, we ought always to receive the generous aid and protection of our mother country. In our traffic with other places, the balance is almost constantly in our favour. Our exports to the West-Indies are bread, peas, rye-meal, Indian corn, apples, onions, boards, staves, horses, sheep, butter, cheese, pickled oysters, beef, and pork. Flour is also a main article, of which there is shipped about 80,000 barrels per annum. To preserve the credit of this important branch of our staple, we have a good law, appointing officers to inspect and brand every cask before its exportation. The returns are chiefly rum, sugar, and molasses, except cash from Curacoa, and when mules, from the Spanish Main, are ordered to Jamaica, and the Windward Islands, which are generally exchanged for their natural produce, for we receive but little cash from our own islands. The balance against them would be much more in our favour, if the indulgence to our sugar colonies did not enable them to sell their produce at a higher rate than either the Dutch or French islands.

The Spaniards commonly contract for provisions with merchants in this and the colony of Pennsylvania, very much to the advantage both of the contractors and the public, because the returns are wholly in cash. Our wheat, flour, Indian corn, and lumber, shipped to Lisbon and Madeira, balance the Madeira wine imported here.

The logwood trade to the bay of Honduras is very considerable, and was pushed by our merchants with great boldness in the most dangerous times. The exportation of flax seed to Ireland is of late very much increased. Between the 9th of December, 1755, and the 23d of February following, we shipped off 12,528 hogsheads. In return for this

article, linens are imported, and bills of exchange drawn in favour of England, to pay for the dry goods we purchase there. Our logwood is remitted to the English merchants for the same purpose.

The fur trade, though very much impaired by the French wiles and encroachments, ought not to be passed over in silence.\* The building of Oswego has conduced, more than any thing else, to the preservation of this trade. Peltry of all kinds is purchased with rum, ammunition, blankets, strouds and wampum, or conque-shell bugles. The French fur trade at Albany was carried on till the summer 1755, by the Caghnuaga proselytes; and, in return for their peltry, they received Spanish pieces of eight, and some other articles which the French want, to complete their assortment of Indian goods. For the savages prefer the English strouds to theirs, and the French found it their interest to purchase them of us, and transport them to the western Indians on the lakes Erie, Huron, and at the strait of Misilimakinac.

Our importation of dry goods from England is so vastly great, that we are obliged to betake ourselves to all possible arts to make remittances to the British merchants. It is for this purpose we import cotton from St. Thomas's and Surinam; lime-juice and Nicaragua wood from Curacoa; and logwood from the bay, &c. and yet it drains us of all the silver and gold we can collect. It is computed, that the annual amount of the goods purchased by this colony in Great Britain, is in value not less than £100,000 sterling; and the sum would be much greater if a stop was put to all clandestine trade. England is, doubtless, entitled to all our superfluities; because our general interests are closely connected, and her navy is our principal defence. On this account, the trade with Hamburgh and Holland for duck, chequered linen, oznabrigs, cordage, and tea, is certainly,

\* It is computed, that formerly, we exported 160 hogsheads of beaver and other fine furs per annum, and 200 hogsheads of Indian-dressed deer-skins, besides those carried from Albany into New-England. Skins undressed are usually shipped to Holland.

upon the whole, impolitic and unreasonable; how much soever it may conduce to advance the interest of a few merchants, or this particular colony.

By what measures this contraband trade may be effectually obstructed is hard to determine, though it well deserves the attention of a British parliament. Increasing the number of custom-house officers, will be a remedy worse than the disease. Their salaries would be an additional charge upon the public; for if we argue from their conduct, we ought not to presume upon their fidelity. The exclusive right of the East-India company to import tea, while the colonies purchase it of foreigners 30 per cent. cheaper, must be very prejudicial to the nation. Our people, both in town and country, are shamefully gone into the habit of tea-drinking; and it is supposed we consume of this commodity in value near £10,000 sterling per annum.

Some are of opinion that the fishery of sturgeons, which abound in Hudson's river, might be improved to the great advantage of the colony; and that, if proper measures were concerted, much profit would arise from ship-building and naval stores. It is certain we have timber in vast plenty, oak, white and black pines, fir, locust, red and white mulberry, and cedar; and, perhaps, there is no soil on the globe fitter for the production of hemp than the lowlands in the county of Albany. To what I have already said concerning iron ore, a necessary article, I shall add an extract from the Independent Reflector.

"It is generally believed that this province abounds with a variety of minerals. Of iron in particular, we have such plenty, as to be excelled by no country in the world of equal extent. It is a metal of intrinsic value beyond any other, and preferable to the purest gold. The former is converted into numberless forms, for as many indispensable uses; the latter for its portableness and scarcity, is only fit for a medium of trade: but iron is a branch of it, and I am persuaded will, one time or other, be one of the most valuable articles of our commerce. Our annual exports to Boston, Rhode-

Island and Connecticut, and, since the late act of parliament, to England, are far from being inconsiderable. The bodies of iron ore in the northern parts of this province are so many, their quality so good, and their situation so convenient, in respect to wood, water, hearth-stone, proper fluxes and carriage, for furnaces, bloomerics, and forges, that with a little attention we might very soon rival the Swedes in the produce of this article. If any American attempts in iron works have proved abortive, and disappointed their undertakers, it is not to be imputed either to the quality of the ore, or a defect of conveniences. The want of more workmen, and the villany of those we generally have, are the only causes to which we must attribute such miscarriages. No man, who has been concerned in them, will disagree with me, if I assert, that from the founder of the furnace, to the meanest banksman or jobber, they are usually low, profligate, drunken, and faithless. And yet, under all the innumerable disadvantages of such instruments, very large estates have, in this way, been raised in some of our colonies. Our success, therefore, in the iron manufactory, is obstructed and discouraged by the want of workmen, and the high price of labour, its necessary consequence, and by these alone: but 'tis our happiness, that such only being the cause, the means of redress are entirely in our own hands. Nothing more is wanting to open a vast fund of riches to the province, in the branch of trade, than the importation of foreigners. If our merchants and landed gentlemen could be brought to a coalition in this design, their private interests would not be better advanced by it, than the public emolument; the latter in particular, would thereby vastly improve their lands, increase the number and raise the rents of their tenants. And I cannot but think, that if those gentlemen who are too inactive to engage in such an enterprise, would only be at the pains of drawing up full representations of their advantages for iron works, and of publishing them from time to time in Great Britain, Ireland, Germany, and Sweden; the province would soon be supplied with a sufficient num-

ber of capable workmen in all branches of that manufactory."

The money used in this province is silver, gold, British halfpence, and bills of credit. To counterfeit either of them is felony without benefit of clergy; but none except the latter and Lyon dollars are a legal tender. Twelve halfpence, till lately passed for a shilling; which, being much beyond their value in any of the neighbouring colonies, the assembly, in 1753, resolved to proceed, at their next meeting, after the 1st of May ensuing, to the consideration of a method for ascertaining their value. A set of gentlemen, in number seventy-two, took the advantage of the discredit that resolve put upon copper halfpence, and on the 22d of December, subscribed a paper, engaging not to receive or pass them, except at the rate of fourteen coppers to a shilling. This gave rise to a mob, for a few days, among the lower class of people, but some of them being imprisoned, the scheme was carried into execution, and established in every part of the province, without the aid of a law. Our paper bills, which are issued to serve the exigencies of the government, were at first equalled to an ounce of silver, then valued at eight shillings. Before the late Spanish war, silver and gold were in great demand to make remittances for European goods, and then the bills sunk, an ounce of silver being worth nine shillings and three pence. During the war, the credit of our bills was well supported, partly by the number of prizes taken by our privateers, and the high price of our produce abroad; and partly by the logwood trade and the depreciation of the New-England paper money, which gave ours a free circulation through the eastern colonies. Since the war, silver has been valued at about nine shillings and two pence an ounce, and is doubtless fixed there, till our imports exceed what we export. To assist his majesty for removing the late encroachments of the French, we have issued £80,000, to be sunk in short periods, by a tax on estates, real and personal; and the whole amount of our paper currency is thought to be about £160,000.

Never was the trade of this province in so flourishing a condition, as at the latter end of the late French war. Above twenty privateers were often out of this port at a time; and they were very successful in their captures. Provisions, which are our staple, bore a high price in the West-Indies. The French, distressed through the want of them, gladly received our flags of truce, though sometimes they had but one or two prisoners on board, because they were always loaded with flour, beef, pork, and such like commodities. The danger their own vessels were exposed to, induced them to sell their sugars to us at a very low rate. A trade was, at the same time, carried on between Jamaica and the Spanish Main, which opened a fine market to the northern colonies, and the returns were principally in cash. It was generally thought, that if the war had continued, the greatest part of the produce of the Spanish and French settlements in the West-Indies would have been transported to Great Britain, through some one or other of her colonies; whence we may fairly argue their prodigious importance.

The provincial laws relating to our trade are not very numerous. Those concerned in them, may have recourse to the late edition of our acts at large, published in 1752; and for this reason, I beg to be excused from exhibiting an unentertaining summary of them in this work.

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#### CHAPTER IV.

##### OF OUR RELIGIOUS STATE.

By the account already given, of the rise and progress of the acts for settling a ministry in four counties, and the observations made concerning our various christian denominations, I have in a great measure anticipated what I at first intended to have ranged under this head.

The principal distinctions amongst us, are the episcopalians, and the Dutch and English presbyterians; the two



last, together with all the other protestants in the colony, are sometimes (perhaps here improperly) called by the general name of dissenters; and, compared to them, the episcopalians are, I believe, scarce in the proportion of one to fifteen. Hence partly arises the general discontent on account of the ministry acts: not so much that the provision made by them is engrossed by the minor sect, as because the body of the people are for an equal, universal, toleration of protestants, and utterly averse to any kind of ecclesiastical establishment. The dissenters, though fearless of each other, are all jealous of the episcopal party, being apprehensive that the countenance they may have from home, will foment a lust for dominion, and enable them, in process of time, to subjugate and oppress their fellow subjects. The violent measures of some of our governors have given an alarm to their fears, and if ever any other gentleman, who may be honoured with the chief command of the province, begins to divert himself, by retrenching the privileges and immunities they now enjoy, the confusion of the province will be the unavoidable consequence of his folly; for though his majesty has no other subjects upon whose loyalty he can more firmly depend, yet an abhorrence of persecution, under any of its appearances, is so deeply rooted in the people of this plantation, that as long as they continue their numbers and interest in the assembly, no attempt will probably be made upon the rights of conscience, without endangering the public repose.

Of the government of the Dutch churches I have already given an account. As to the episcopal clergy, they are missionaries of the English society for propagating the gospel, and ordinarily ordained by the bishop of London, who, having a commission from the king to exercise ecclesiastical jurisdiction, commonly appoints a clergyman here for his commissary. The ministers are called by the particular churches, and maintained by the voluntary contribution of their auditors and the society's annual allowance, there being no law for tithes.

The English presbyterians are very numerous. Those inhabiting New-York, New-Jersey, Pennsylvania, and the three Delaware counties, are regularly formed, after the manner of the church of Scotland, into consistories or kirk sessions, presbyteries and synods, and will probably soon join in erecting a general assembly. The clergy are ordained by their fellows, and maintained by their respective congregations. I except those missionaries among the Indians, whose subsistence is paid by the *Society in Scotland, for propagating Christian Knowledge*. None of the presbyterian churches in this province are incorporated, as is the case of many in New-Jersey. Their judicatories are upon a very proper establishment, for they have no authority by legal sanctions to enforce their decrees. Nor indeed is any religious sect, amongst us, legally invested with powers prejudicial to the common privileges of the rest. The dominion of all our clergy is, as it ought to be, merely spiritual. The episcopalians, however, sometimes pretend, that the ecclesiastical establishment in South Britain extends here; but the whole body of the dissenters are averse to the doctrine. The point has been disputed with great fervour, and the sum of the arguments against it is contained in a late paper, which I shall lay before the reader, at large, without any additional reflections.

It was published in September 1753, under the title of the Independent Reflector, and is in these words:—

*The arguments in support of an ecclesiastical establishment, in this province, impartially considered and refuted.*

— Eripe turpi  
Colla jugo: liber, liber sum, dic age. HOR.

Whether the church of England is equally established in the colonies, as in the southern parts of Great Britain, is a question that has often been controverted. Those who hold the affirmative, have drawn a long train of consequences in favour of the episcopalians, taking it for granted, that the

truth is on their side. The presbyterians, independents, congregationalists, anabaptists, quakers, and all those among us, who in England would fall under the general denomination of dissenters, are warm in the negative. I beg leave, therefore, to interpose in the debate; and, as I promised, in the introduction to these papers, to vindicate the religious as well as civil rights and privileges of my countrymen, I shall devote this paper to a consideration of so important a point: to which I am the more strongly inclined, because such establishment has often been urged against the scheme I have proposed for the constitution of our college. My opinion is, that the notion of a general religious establishment in this province is entirely groundless. According to the strict rules of controversy, the *onus probandi*, or the burden of the proof, lies upon those who affirm the position; and it would therefore be sufficient for me barely to deny it. I shall, nevertheless, waive the advantage of this rule of the schools; and, as becomes an impartial advocate for truth, proceed to state the arguments which are generally urged in support of an establishment. I shall then show their insufficiency, and conclude with the particular reasons upon which my opinion is founded.

They who assert that the church of England is established in this province, never, that I have heard of, pretended that it owes its establishment to any provincial law of our own making. Nor indeed, is there the least ground for such a supposition. The acts that establish a ministry in this, and three other counties, do not affect the whole colony; and therefore, can by no means be urged in support of a general establishment. Nor were they originally designed to establish the episcopalians in preference or exclusion of any other protestants in those counties to which they are limited. But as the proposition is, that the establishment of the church of England is equally binding here, as in England, so agreeable thereto, the arguments they adduce are the following:

*First*, That as we are an English colony, the constitutional laws of our mother country, antecedent to the

legislature of our own, are binding upon us ; and therefore, at the planting of this colony, the English religious establishment immediately took place.

*Secondly*, That the act which established the episcopal church in South Britain, previous to the union of England and Scotland, extends to, and equally affects, all the colonies.

These are the only arguments that can be offered with the least plausibility, and if they are shown to be inconclusive, the position is disproved, and the arguments of consequence must be impertinent and groundless. I shall begin with the examination of the first : and here it must be confessed, for undoubted law, that every new colony, till it has a legislature of its own, is, in general, subject to the laws of the country from which it originally sprang. But that all of them, without distinction, are to be supposed binding upon such planters, is neither agreeable to law nor reason. The laws which they carry with them, and to which they are subject, are such as are absolutely necessary to answer the original intention of our entering into a state of society—such as are requisite, in their new colony state, for the advancement of their and the general prosperity ; such, without which they will neither be protected in their lives, liberty, or property : and the true reason of their being considered, even subject to such laws, arises from the absolute necessity of their being under some kind of government, their supporting a colony relation and dependence, and the evident fitness of their subjection to the laws of their mother country, with which alone they can be supposed to be acquainted. Even at this day we extend every general act of parliament which we think reasonable and fit for us, though it was neither designed to be a law upon us, nor has words to include us, and has even been enacted long since we had a legislature of our own. This is a practice we have introduced for our conveniency ;\* but that the English laws, so

\* This practice is very dangerous, and is assuming little less than a legislative authority.

far as I have distinguished them, should be binding upon us, antecedent to our having a legislature of our own, is of absolute unavoidable necessity. But no such necessity can be pretended, in favour of the introduction of any religious establishment whatsoever; because, it is evident that different societies do exist with different ecclesiastical laws, or, which is sufficient to my purpose, without such as the English establishment; and that civil society, as it is antecedent to any ecclesiastical establishments, is in its nature unconnected with them, independent of them, and all social happiness completely attainable without them.

*Secondly,* To suppose all the laws of England, without distinction, obligatory upon every new colony at its implantation, is absurd, and would effectually prevent the subjects from undertaking so hazardous an adventure. Upon such a supposition a thousand laws will be introduced, inconsistent with the state of a new country, and destructive of the planters. To use the words of the late attorney-general, sir Dudley Ryder,\* "It would be acting the part of an unskilful physician, who should prescribe the same dose to every patient, without distinguishing the variety of distempers and constitutions." According to this doctrine, we are subject to the payment of tithes, ought to have a spiritual court, and impoverished, as the first settlers of the province must have been, they were yet liable to the payment of the land tax. And had this been the sense of our rulers, and their conduct conformable thereto, scarce ever would our colonies have appeared in their present flourishing condition; especially if it be considered, that the first settlers of most of them, sought an exemption in these American wilds, from the establishment to which they were subject at home.

*Thirdly,* If the planters of every new colony carry with them the established religion of the country from whence they migrate; it follows, that if a colony had been planted when

\* Afterwards lord chief justice of the King's Bench. These were his words, in an opinion against the extent of the statute of frauds and perjuries.

the English nation were pagans, the establishment in such colony must be paganism alone : and, in like manner, had this colony been planted while popery was established in England, the religion of papists must have been our established religion ; and if it is our duty to conform to the religion established at home, we are equally bound, against conscience and the bible, to be pagans, papists, or protestants, according to the particular religion they shall please to adopt. A doctrine that can never be urged, but with a very ill grace indeed, by any protestant minister !

*Fourthly*, If the church of England is established in this colony, it must either be founded on acts of parliament, or the common law. That it is not established by the first, I shall prove in the sequel ; and that it cannot be established by the common law, appears from the following considerations :

The common law of England, properly defined, consists of those general laws to which the English have been accustomed from time whereof there is no memory to the contrary ; and every law deriving its validity from such immemorial custom, must be carried back as far as to the reign of Richard I. whose death happened on the 6th of April, 1199. But the present establishment of the church of England was not till the fifth year of queen Anne. And hence it is apparent, that the establishment of the church of England can never be argued from the common law, even in England ; nor could be any part of it, since it depends not for its validity upon custom immemorial. And therefore, though it be admitted, that every English colony is subject to the common law of the realm, it by no means follows, that the church of England is established in the colonies ; because the common law knows of no such religious establishment, nor considers any religious establishment whatever, as any part of the English constitution. It does, indeed, encourage religion ; but that, and a particular church government, are things entirely different.

I proceed now to a consideration of the second argument

insisted on to prove an episcopal establishment in the colonies, founded on the act which established the church of England, passed in the fifth year of queen Anne, recited and ratified in the act for a union of the two kingdoms of England and Scotland. And that this act does not establish the church of England in the colonies, has been so fully shown by Mr. Hobart,\* in his second address to the episcopal separation in New-England, that I shall content myself with an extract from the works of that ingenious gentleman, which, with very little alteration is as follows :

“The act we are now disputing about, was made in the fifth year of queen Ann, and is entitled, an act for securing the church of England as by law established. The occasion of the statute was this : The parliament in Scotland, when treating of a union with England, were apprehensive of its endangering their ecclesiastical establishment. Scotland was to have but a small share in the legislature of Great Britain—but forty-five members in the house of commons, which consists of above five hundred, and but sixteen in the house of lords, which then consisted of near an hundred, and might be increased by the sovereign at pleasure. The Scots, therefore, to prevent having their ecclesiastical establishment repealed in a British parliament, where they might be so easily out-voted by the English members, passed an act previous to the union, establishing the presbyterian church within the kingdom of Scotland, in perpetuity, and made this act an essential and fundamental part of the union which might not be repealed, or altered by any subsequent British parliament ; and this put the English parliament upon passing this act for securing the church of England. Neither of them designed to enlarge the bounds of their ecclesiastical constitution, or extend their establishment farther than it reached before, but only to secure and perpetuate it in its then present extent. This is evident, not only from the occasion of the act, but from the charitable temper

\* A minister of one of the churches, at Fairfield, in Connecticut.

the English parliament was under the influence of, when they passed it. The lord North and Grey offered a rider to be added to the bill for an union, viz. That it might not extend to an approbation or acknowledgement of the truth of the presbyterian way of worship, or allowing the religion of the church of Scotland to be what it is styled, the true protestant religion. But this clause was rejected. A parliament that would acknowledge the religion of the church of Scotland, to be the true protestant religion, and allow their acts to extend to an approbation of the presbyterian way of worship, though they might think it best to secure and perpetuate the church of England within those bounds, wherein it was before established, can hardly be supposed to have designed to extend it beyond them.

"The title of the act is exactly agreeable to what we have said of the design of it, and of the temper of the parliament that passed it. It is entitled, an act not for enlarging but for securing the church of England, and that not in the American plantations, but as it is now by law established; which plainly means no more than to perpetuate it within its ancient boundaries.

"The provision made in the act itself, is well adapted to this design; for it enacts, that the act of the 13th of Elizabeth, and the act of uniformity, passed in the 13th year of Charles II. and all and singular other acts of parliament then in force for the establishment and preservation of the church of England, should remain in full force for ever; and that every succeeding sovereign should, at his coronation, take and subscribe an oath to maintain and preserve inviolably the said settlement of the church of England, as by law established, within the kingdoms of England and Ireland, the dominion of Wales, and town of Berwick upon Tweed, and the territories thereunto belonging. This act doth not use such expressions, as would have been proper and even necessary, had the design been to have made a new establishment; but only such as are proper to ratify and confirm an old one. The settlement, which the king is sworn to pre-



serve, is represented as existing previously to the passing this act, and not as made by it. The words of the oath are, to "maintain and preserve inviolably the said settlement." If it be asked, what settlement? the answer must be, a settlement heretofore made and confirmed by certain statutes, which for the greater certainty and security are enumerated in this act, and declared to be unalterable. This is the settlement the king is sworn to preserve, and this settlement has no relation to us in America. For the act, which originally made it, did not reach hither; and this act, which perpetuates them, does not extend them to us."

It is a mistake to imagine, that the word territories necessarily means these American colonies. "These countries are usually in law, as well as other writings, styled colonies or plantations, and not territories. An instance of this we have in the charter to *The Society for propagating the gospel in foreign parts*." And it is the invariable practice of the legislature in every act of parliament, both before and after this act, designed to affect us, to use the words colonies, or plantations. Nor is it to be supposed, that, in so important a matter, words of so direct and broad an intent, would have been omitted. "The islands of Jersey and Guernsey were properly territories belonging to the kingdom of England before the union took place; and they stand in the same relation to the kingdom of Great Britain since. The church of England was established in these islands, and the legislature intended to perpetuate it in them as well as in England itself; so that as these islands were not particularly named in the act, there was occasion to use the word territories, even upon the supposition that they did not design to make the establishment more extensive than it was before the law passed." Further, in order to include the plantations in the word territories, we must suppose it always to mean every other part of the dominions not particularly mentioned in the instrument that uses it, which is a construction that can never be admitted: for, hence it will follow, that those commissions which give the govern-

ment of a colony, and the *territories thereon depending, in America*, (and this is the case of every one of them) extend to *all* the American colonies, and their governors must of consequence have reciprocal superintendencies; and should any commission include the word *territories generally*, unrestricted to America, by the same construction, the governor therein mentioned, might exercise an authority under it not only in America, but in Africa and the Indies, and even in the kingdom of Ireland, and perhaps, in the absence of the king, in Great Britain itself. Mr. Hobart goes on, and argues against the establishment from the light in which the act of union has, ever since it was passed, been considered.

Dr. Bisse, bishop of Hereford, (says he) a member of the society, preached the annual sermon, February 21st, 1717, ten years after the act of union took place; and he says, it would have well become the wisdom wherewith that great work (the reformation or establishment of the church of England,) was conducted in this kingdom, that this foreign enterprise, (the settlement of plantations in America,) also should have been carried on by the government in the like regular way. But he owns the government at home did not interpose in the case, or establish any form of religion for us. In truth (says his lordship) the whole was left to the wisdom of the first proprietors, and to the conduct of every private man. He observes, that of late years the civil interest hath been regarded, and the dependance of the colonies, on the imperial crown of the realm, secured: but then, with regard to the religion of the plantations, his lordship acknowledges that the government itself here, at home, sovereign as it is, and invested doubtless with sufficient authority there, hath not thought fit to interpose in this matter, otherwise than in this charitable way: it hath enabled us to ask the benevolence of all good christians towards the support of missionaries to be sent among them. Thus bishop Bisse thought as I do, and that the act of union nor any other law prior thereto, did extend the esta-

blishment to the plantations; and if the society had not been of the same opinion, they would hardly have printed and dispersed his sermon. Neither did the civil rulers of the nation, who may justly be supposed acquainted with its laws, think the act of union, or any other law, established the church of England in America. This is plain from the letter of the lords justices to governor Dummer, in the year 1725, almost twenty years after the union, wherein they say, there is no regular establishment of any national or provincial church in these plantations.

"If it be urged, that the king's commission to the late bishop of London, proves an ecclesiastical establishment here, it is sufficient to answer, that his lordship was remarkable for skill in the laws, so far as they relate to ecclesiastical affairs, as appears from his Codex; and he was of the contrary opinion, for in his letter to Dr. Colman, of May 24, 1735, he writes thus: "My opinion has always been, that the religious state of New England is founded in an equal liberty to all protestants—none of which can claim the name of a national establishment, or any kind of superiority over the rest." This opinion the bishop gave not only since the act of union, but even seven years after he had received his commission, and surely it must be admitted, that as he had time enough to consider it, so he, of all others, best understood it." Thus far Mr. Hobart. With respect to the act of union, I beg leave only to subjoin, that it is highly probable the Scotch parliament believed the English intended to establish their church only in England. For in the close of the act, by which they had established the presbyterian church in Scotland, it is declared in these express words, that the parliament of England may provide for the security of the church of England, as they think expedient, to take place within the bounds of the said kingdom of England. And whatever latitude the word kingdom has in common speech, it, in a legal sense, is limited to England, properly so called, and excludes the plantations.

Nor can we suppose, that the church of England is

established in these colonies, by any acts prior to the act of union above considered. For besides the several opinions against such supposition already adduced, it is unreasonable to imagine, that if there was any such establishment, king Charles II. in direct repugnancy thereto, should have made the grant of Pennsylvania, and given equal privileges to all religions in that province, without even excepting the Roman catholics; and that the colonies of Rhode-Island, Connecticut, and the Massachusett's Bay, should be permitted to make their provincial establishments, in opposition to an antecedent establishment of the church of England, especially, as the laws of the Massachusett's Bay province are constantly sent home, and the king has the absolute power of repealing every act he should think improper to be continued as a law. Whoever, therefore, considers this, and that the king is sworn to preserve the church of England establishment, must necessarily conclude, that whatever sentiments may obtain among the episcopalians in America, our kings and their councils have always conceived that such establishment could by no means be extended to us. As to Connecticut, all the episcopalians of that colony, and even their ministers, were legally compellable to contribute to an annual tax for the support of the congregational clergy, till of late they were favoured with a law which grants them a privilege of exemption from that iniquitous and unreasonable burden. But whether they are subject to the like unchristian imposition in the other colonies above mentioned, I am not sufficiently acquainted with their laws to determine.\*

The 13th number of the Watch Tower published at New-York, in 1755, espouses the same side with the author of the Reflector, adds several new arguments and the opinions of eminent counsel at law, and considers the force of what is

\* I believe there is no just cause for the complaints transmitted by the missionaries. Dr. Douglass assigns several instances of gross misrepresentations and falsehoods.—Vid. his Summary, 2d vol. p. 139. Boston edit. 1753, and the Watch Tower. No. XLI. published at New-York, in 1755.

advanced by the late Dr. Douglass in favour of his position, that the religious state of the American plantations is an universal toleration of protestants of every denomination.

The clergy of this province are, in general, but indifferently supported: it is true they live easily, but few of them leave any thing to their children. The episcopal missionaries, for enlarging the sphere of their secular business, not many years ago attempted, by a petition to the late governor Clinton, to engross the privilege of solemnizing all marriages. A great clamour ensued, and the attempt was abortive. Before that time the ceremony was even performed by justices of the peace, and the judges at law have determined such marriages to be legal. The governor's licenses now run to "All protestant ministers of the gospel." Whether the justices act still, when the banns are published in our churches, which is customary only with the poor, I have not been informed. Marriage in a new country ought to have the highest encouragements, and it is on this account, perhaps, that we have no provincial law against such as are clandestine, though they often happen, and, in some cases, are attended with consequences equally melancholy and mischievous.

As to the number of our clergymen, it is large enough at present, there being but few settlements unsupplied with a ministry, and some superabound. In matters of religion we are not so intelligent, in general, as the inhabitants of the New-England colonies; but both in this respect and good morals, we certainly have the advantage of the southern provinces. One of the king's instructions to our governors, recommends the investigation of means for the conversion of negroes and Indians. An attention to both, especially the latter, has been too little regarded. If the missionaries of the English Society for propagating the gospel, instead of being seated in opulent christianized towns, had been sent out to preach among the savages, unspeakable political advantages would have flowed from such a salutary measure. Dr. Douglass, a sensible, immethodical writer, often

incorrect, expects too much:\* besides, he treats the missionaries with rudeness and contempt, and lashes their indolence with unmerciful acrimony.

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## CHAPTER V.

### THE POLITICAL STATE.

THIS colony, as a part of the king's dominions, is subject to the control of the British parliament, but its more immediate government is vested in a governor, council, and general assembly.

The governors in chief, who are always appointed by the king's commission under the great seal of Great Britain, enjoy a vast plenitude of power, as may be seen in their patents, which are nearly the same. The following is a copy of that to the late sir Danvers Osborn.

GEORGE II. by the grace of God, of Great Britain, France and Ireland, king, defender of the faith, and so forth. To our trusty and well beloved sir Danvers Osborn baronet, greeting, whereas we did by our letters patent under our great seal of Great-Britain, bearing date at Westminster, the third day of July, in the fifteenth year of our reign, constitute and appoint the honourable George Clinton esq. captain general and governor in chief in and over our province of New-York, and the territories depending thereon in America, for and during our will and pleasure, as by the said recited letters patent, (relation being thereunto had) may more fully and at large appear. Now know you that we have revoked and

\* "Our young missionaries may procure a perpetual alliance, and commercial advantages with the Indians, which the Roman catholic clergy cannot do, because they are forbid to marry. I mean our missionaries may intermarry with the daughters of the Sachems, and other considerable Indians, and their progeny will forever be a certain cement between us and the Indians." Dougl. Sum. &c. Vol. II. p. 138. Boston Edit. 1753.

determined, and by these presents do revoke and determine, the said recited letters patent, and every clause, article, and thing therein contained. And further know you, that we reposing especial trust and confidence in the prudence, courage, and loyalty, of you, the said sir Danvers Osborn, of our especial grace, certain knowledge, and mere motion, have thought fit to constitute, and appoint you, the said sir Danvers Osborn, to be our captain general, and governor in chief in and over our province of New-York, and the territories depending thereon in America, and we do hereby require, and command you to do and execute all things in due manner, that shall belong unto your said command and the trust we have reposed in you, according to the several powers and directions granted or appointed you by this present commission, and the instructions herewith given you, or by such further powers, instructions and authorities, as shall at any time hereafter be granted or appointed you, under our signet and sign manual, or by our order in our privy council, and according to such reasonable laws and statutes as now are in force, or hereafter shall be made and agreed upon by you, with the advice and consent of our council, and the assembly of our said province under your government, in such manner and form as is hereafter expressed, and our will and pleasure is that you, the said sir Danvers Osborn, after the publication of these our letters patent, do in the first place, take the oaths appointed to be taken by an act passed in the first year of our late royal father's reign, entitled an act for the further security of his majesty's person and government, and the succession of the crown in the heirs of the late princess Sophia, being protestants, and for extinguishing the hopes of the pretended prince of Wales, and his open and secret abettors, as also that you make and subscribe the declaration mentioned in an act of parliament, made in the twenty-fifth year of the reign of king Charles II. intituled an act for preventing dangers which may happen from popish recusants, and likewise that you take the usual oath for the due execution of the office and trust of our captain

general, and governor in chief in and over our said province of New-York, and the territories depending thereon, for the due and impartial administration of justice, and further that you take the oath required to be taken by governors of plantations, to do their utmost that the several laws relating to trade and the plantations be observed, which said oaths and declaration our council in our said province, or any three of the members thereof, have hereby full power and authority and are required to tender and administer unto you and in your absence to our lieutenant-governor if there be any upon the place, all which being duly performed you shall administer unto each of the members of our said council as also to our lieutenant-governor if there be any upon the place the oaths mentioned in the said act entituled an act for the further security of his majesty's person and government, and the succession of the crown in the heirs of the late princess Sophia, being protestants, and for extinguishing the hopes of the pretended prince of Wales and his open and secret abettors, as also to cause them to make and subscribe the aforementioned declaration and to administer to them the oath for the due execution of their places and trusts. And we do hereby give and grant unto you full power and authority to suspend any of the members of our said council from sitting voting and assisting therein, if you shall find just cause for so doing, and if there shall be any lieutenant-governor him likewise to suspend from the execution of his command, and to appoint another in his stead until our pleasure be known, and if it shall at any time happen that by the death departure out of our said province or suspension of any of our said councillors or otherwise there shall be a vacancy in our said council (any three whereof we do hereby appoint to be a quorum) our will and pleasure is that you signify the same unto us by the first opportunity, that we may under our signet and sign manual constitute and appoint others in their stead. But that our affairs may not suffer at that distance for want of a due number of councillors if ever it should happen that there be less than seven



of them residing in our said province we do hereby give and grant unto you the said sir Danvers Osborn full power and authority to choose as many persons out of the principal freeholders inhabitants thereof as will make up the full number of our said council to be seven and no more, which persons so chosen and appointed by you shall be to all intents and purposes councillors in our said province until either they shall be confirmed by us or that by the nomination of others by us under our sign manual and signet our said council shall have seven or more persons in it. And we do hereby give and grant unto you full power and authority with the advice and consent of our said council from time to time as need shall require to summon and call general assemblies of the said freeholders and planters within your government according to the usage of our province of New-York. And our will and pleasure is that the persons thereupon duly elected by the major part of the freeholders of the respective counties and places and so returned shall before their sitting take the oaths mentioned in the said act intituled an act for the further security of his majesty's person and government and the succession of the crown in the heirs of the late princess Sophia being protestants and for extinguishing the hopes of the pretended prince of Wales and his open and secret abettors as also make and subscribe the aforementioned declaration (which oaths and declarations you shall commissionate fit persons under our seal of New-York to tender and administer unto them) and until the same shall be so taken and subscribed no person shall be capable of sitting though elected. And we do hereby declare that the persons so elected and qualified shall be called and deemed the general assembly of that our province and the territories depending thereon. And you the said sir Danvers Osborn by and with the consent of our said council and assembly or the major part of them respectively shall have full power and authority to make constitute and ordain laws statutes and ordinances for the public peace welfare and good government of our

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said province and of the people and inhabitants thereof and such others as shall resort thereto and for the benefit of us our heirs and successors, which said laws statutes and ordinances are not to be repugnant but as near as may be agreeable to the laws and statutes of this our kingdom of Great Britain, provided that all such laws statutes and ordinances of what nature or duration soever, be within three months or sooner after the making thereof transmitted unto us under our seal of New-York for our approbation or disallowance of the same as also duplicates thereof by the next conveyance and in case any or all of the said laws statutes and ordinances being not before confirmed by us shall at any time be disallowed and not approved and so signified by us our heirs or successors under our or their sign manual and signet or by order of our or their privy council unto you the said sir Danvers Osborn or to the commander-in-chief of our said province for the time being then such and so many of the said laws statutes and ordinances as shall be so disallowed and not approved shall from thenceforth cease determine and become utterly void and of none effect any thing to the contrary thereof notwithstanding. And to the end that nothing may be passed or done by our said council or assembly to the prejudice of us our heirs or successors we will and ordain that you the said sir Danvers Osborn shall have and enjoy a negative voice in the making and passing of all laws statutes and ordinances as aforesaid, and you shall and may likewise from time to time as you shall judge it necessary adjourn prorogue and dissolve all general assemblies as aforesaid. And our further will and pleasure is that you shall and may use and keep the public seal of our said province of New-York for sealing all things whatsoever that pass the great seal of our said province under your government. And we do further give and grant unto you the said sir Danvers Osborn full power and authority from time to time and at any time hereafter by yourself or by any other to be authorized by you in that behalf to administer and give the aforementioned oaths to

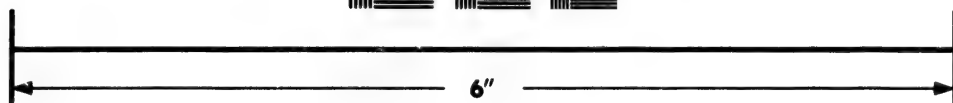
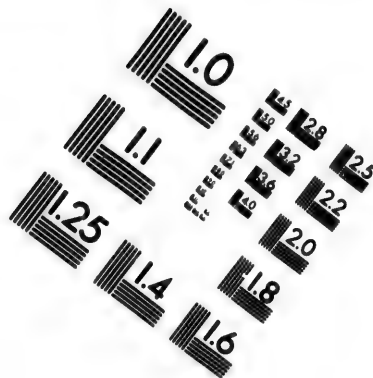
all and every such person and persons as you shall think fit who shall at any time or times pass into our said province or shall be resident or abiding there. And we do further by these presents give and grant unto you the said sir Danvers Osborn full power and authority with the advice and consent of our said council to erect constitute and establish such and so many courts of judicature and public justice within our said province under your government as you and they shall think fit and necessary for the hearing and determining of all causes as well criminal as civil according to law and equity, and for awarding execution thereupon with all reasonable and necessary powers authorities fees and privileges belonging thereunto as also to appoint and commissionate fit persons in the several parts of your government to administer the oaths mentioned in the aforesaid act intituled an act for the further security of his majesty's person and government and the succession of the crown in the heirs of the late princess Sophia being protestants and for extinguishing the hopes of the pretended prince of Wales and his open and secret abettors as also to tender and administer the aforesaid declaration unto such persons belonging to the said courts as shall be obliged to take the same. And we do hereby authorize and empower you to constitute and appoint judges and in cases requisite commissioners of oyer and terminer justices of the peace and other necessary officers and ministers in our said province for the better administration of justice and putting the laws in execution, and to administer or cause to be administered unto them such oath or oaths as are usually given for the due execution and performance of offices and places and for the clearing of truth in judicial causes. And we do hereby give and grant unto you full power and authority where you shall see cause or shall judge any offender or offenders in criminal matters or for any fines or forfeitures due unto us, fit objects of our mercy, to pardon all such offenders and to remit all such offences fines and forfeitures (treason and wilful murder only excepted) in which cases you shall likewise

have power upon extraordinary occasions to grant reprieves to the offenders until and to the intent our royal pleasure may be known therein.

And we do by these presents authorize and impower you to collate any person or persons, to any churches, chapels, or other ecclesiastical benefices, within our said province and territories aforesaid as often as any of them shall happen to be void. And we do hereby give and grant unto you, the said sir Danvers Osborn, by yourself, or by your captains and commanders, by you to be authorized, full power and authority to levy, arm, muster, command, and employ, all persons whatsoever residing within our said province of New-York, and other the territories under your government, and, as occasion shall serve, to march from one place to another, or to embark them for the resisting and withstanding of all enemies, pirates and rebels, both at sea and land, and to transport such forces as any of our plantations in America, if necessity shall require, for the defence of the same against the invasions or attempts of any of our enemies, and such enemies, pirates and rebels, if there shall be occasion to pursue and prosecute, in or out of the limits of our said province and plantations, or any of them, and if it shall so please God, them to vanquish, apprehend and take, and being taken, either according to law to put to death, or keep and preserve alive at your discretion, and to execute martial law in time of invasion, or other times when by law it may be executed, and to do and execute, all, and every other thing and things, which to our captain-general, and governor-in-chief, doth, or ought of right to belong. And we do hereby give, and grant unto you, full power and authority, by and with the advice and consent of our said council, to erect, raise, and build, in our said province of New-York, and the territories depending thereon, such, and so many forts and platforms, castles, cities, boroughs, towns and fortifications, as you by the advice aforesaid shall judge necessary, and the same, or any of them, to fortify and furnish with ordnance, ammunition, and all sorts of arms,

fit and necessary for the security and defence of our said province, and by the advice aforesaid, the same again, or any of them to demolish or dismantle as may be most convenient. And forasmuch as divers mutinies and disorders may happen by persons shipped and employed at sea during the time of war, and to the end that such as shall be shipped and employed at sea during the time of war may be better governed and ordered, we do hereby give, and grant unto you, the said sir Danvers Osborn, full power and authority to constitute and appoint captains, lieutenants, masters of ships, and other commanders and officers, and to grant to captains, lieutenants, masters of ships and other commanders and officers commissions to execute the law martial during the time of war, according to the directions of two acts, the one passed in the thirteenth year of the reign of king Charles the second, entituled an act for the establishing articles and orders for the regulating and better government of his majesty's navies ships of war and forces by sea, and the other passed in the eighteenth year of our reign, entituled an act for the further regulating and better government of his majesty's navies ships of war and forces by sea, and for regulating proceedings upon courts martial in the sea service, and to use such proceedings, authorities, punishments, corrections, and executions, upon any offender, or offenders, who shall be mutinous, seditious, disorderly, or any way unruly, either at sea, or during the time of their abode or residence in any of the ports, harbours, or bays of our said province and territories, as the case shall be found to require according to the martial law, and the said direction during the time of war as aforesaid, provided that nothing herein contained shall be construed to the enabling you or any by your authority to hold plea or have any jurisdiction of any offences, cause, matter, or thing, committed or done upon the high sea, or within any of the havens, rivers, or creeks, of our said province and territories under your government, by any captain, commander, lieutenant, master, officer, seaman, soldier, or other





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person whatsoever, who shall be in our actual service and pay in or on board any of our ships of war or other vessels acting by immediate commission or warrant from our commissioners for executing the office of our high admiral, or from our high admiral of Great Britain, for the time being under the seal of our admiralty, but that such captain, commander, lieutenant, master, officer, seaman, soldier, or other person so offending, shall be left to be proceeded against and tried as their offences shall require, either by commission under our great seal of Great Britain as the statute of the twenty-eighth of Henry the eighth directs, or by commission from our said commissioners for executing the office of our high admiral, or from our high admiral of Great Britain for the time being according to the aforementioned acts. Provided nevertheless, that all disorders and misdemeanors committed on shore by any captain, commander, lieutenant, master, officer, seaman, soldier, or other person whatsoever belonging to any of our ships of war, or other vessels acting by immediate commission or warrant from our said commissioners for executing the office of our high admiral, or from our high admiral of Great Britain for the time being under the seal of our admiralty, may be tried and punished according to the laws of the place where any such disorders, offences, and misdemeanors shall be committed on shore, notwithstanding such offenders be in our actual service, and born in our pay, on board any such our ships of war, or other vessels acting by immediate commission or warrant from our said commissioners for executing the office of our high admiral, or from our high admiral of Great Britain, for the time being as aforesaid so as he shall not receive any protection for the avoiding of justice for such offences committed on shore from any pretence of his being employed in our service at sea.

And our further will and pleasure is that all public monies raised, or which shall be raised by any act, to be hereafter made within our said province, and other the territories depending thereon, be issued out by warrant from you, by

and with the advice and consent of our council, and disposed of by you, for the support of the government, and not otherwise. And we do hereby likewise give and grant unto you full power and authority, by and with the advice and consent of our said council, to settle and agree with the inhabitants of our province and territories aforesaid, for such lands, tenements and hereditaments, as now are, or hereafter shall be in our power to dispose of, and them to grant to any person or persons upon such terms, and under such moderate quit-rents, services and acknowledgments to be thereupon reserved unto us as you, by and with the advice aforesaid, shall think fit, which said grants are to pass and be sealed by our seal of New-York, and being entered upon record by such officer or officers as are, or shall be appointed thereunto, shall be good and effectual in the law against us, our heirs and successors. And we do hereby give you the said Sir Danvers Osborn full power to order and appoint fairs, marts and markets, as also such and so many ports, harbours, bays, havens and other places for the convenience and security of shipping, and for the better loading and unloading of goods and merchandises as by you, with the advice and consent of our said council, shall be thought fit and necessary. And we do hereby require and command all officers and ministers, civil and military, and all other inhabitants of our said province, and territories depending thereon, to be obedient, aiding and assisting unto you, the said sir Danvers Osborn, in the execution of this our commission, and the powers and authorities herein contained, and in case of your death or absence out of our said province, and territories depending thereon, to be obedient aiding and assisting unto such person as shall be appointed by us to be our lieutenant-governor, or commander-in-chief of our said province, to whom we do, therefore, by these presents give and grant all and singular the powers and authorities herein granted, to be by him executed and enjoyed during our pleasure or until your arrival within our said province and territories, and if upon your death or absence out of our said province and territories

depending thereon, there be no person upon the place commissioned or appointed by us to be our lieutenant-governor or commander-in-chief of our said province, our will and pleasure is, that the eldest counsellor, whose name is first placed in our said instructions to you, and who shall at the time of your death or absence be residing within our said province of New-York, shall take upon him the administration of the government and execute our said commission and instructions, and the several powers and authorities therein contained, in the same manner and to all intents and purposes, as other our governor and commander-in-chief of our said province, should or ought to do in case of your absence, until your return, or in all cases until our further pleasure be known therein, and we do hereby declare, ordain and appoint, that you, the said sir Danvers Osborn, shall and may hold, execute and enjoy the office and place of our captain general and governor-in-chief, in and over our province of New-York, and the territories depending thereon, together with all and singular the powers and authorities hereby granted unto you for and during our will and pleasure. And whereas there are divers colonies adjoining to our province of New-York for the defence and security whereof it is requisite that due care be taken in time of war we have therefore thought it necessary for our service and for the better protection and security of our subjects inhabiting those parts to constitute and appoint and we do by these presents constitute and appoint you the said sir Danvers Osborn to be our captain general and commander-in-chief of the militia and of all the forces by sea and land within our colony of Connecticut and of all our forts and places of strength within the same and for the better ordering governing and ruling our said militia and all our forces forts and places of strength within our said colony of Connecticut we do hereby give and grant unto you the said sir Danvers Osborn and in your absence to our commander-in-chief of our province of New-York all and every the like powers as in these presents are before granted and recited for the ruling governing and ordering

our militia and all our forces forts and places of strength within our province of New-York to be exercised by you the said Sir Danvers Osborn and in your absence from our territories and dominion of New-York by our commander-in-chief of our province of New-York within our said colony of Connecticut for and during our pleasure. In witness whereof we have caused these our letters to be made patent witness ourself at Westminster the first day of August in the twenty-seventh year of our reign.

By writ of privy seal,

YORKE AND YORKE.

The instructions, received with the commission, are explanatory of the patent, and regulate the governor's conduct on almost every common contingency.\*

The salary generally granted to the governor by the instructions is £1200 sterling out of the revenue here; but that being an insufficient fund, the assembly in lieu of it, give him annually £1560 currency. The perquisites perhaps amount to as much more.

This office was formerly very lucrative, but becomes daily less considerable, because almost all the valuable tracts of land are already taken up.

The council, when full, consists of twelve members appointed by the King's mandamus and sign manual. All their privileges and powers are contained in the instructions. They are a privy council to the governor, in acts of civil government; and take the same oath administered to the King's council in England. The tenure of their places is extremely precarious, and yet their influence upon the public measures very considerable. In the grant of all patents the governor is bound to consult them, and regularly they cannot pass the seal without their advice.

\* The instructions are in number above a hundred, and never recorded. They are changeable at the King's pleasure, but rarely undergo any very considerable alteration.

They enjoy a legislative power, as the lords do in parliament; and exercise also judicial authority upon writs of error and appeals. They are conveyed by the governor, and he is always present when they sit as a court or privy council, which is ordinarily at the fort. In their legislative capacity they meet without the governor, and always at the city-hall. They sit according to their seniority, and the eldest member present is speaker of their house. In a committee the chairman has no voice. They cannot vote by proxy, but have the privilege of entering their dissent, and the reasons at large, on their minutes. Their proceedings are very formal, and in many respects they imitate the example of the lords. Their messages to the assembly are carried by one of their own members, and the house always rises at his entrance and receives them standing.

The council never publish their legislative minutes, but the assembly always print their own votes, nor do either of these houses permit strangers to be present at their conventions.

A counsellor's title is *the honourable*. They serve his majesty without salaries. The business of the privy council board is of late very much increased, and never had so great weight in the colony as at present, which is much owing to the king's calling lawyers of reputation to the assistance of his governors. The present members are the honourable

CADWALLADER COLDEN, ARCHIBALD KENNEDY, JAMES DE LANCEY,\* lieutenant-governor, DANIEL HORSMANDEN, GEORGE CLARKE, jun. JOSEPH MURRAY, JOHN RUTHERFORD, EDWARD HOLLAND, sir WILLIAM JOHNSON, bart., JOHN CHAMBERS, WILLIAM SMITH.

The business in council daily encreases, and is now become very burdensome, being entirely transacted by a few members. Mr. Colden resides in the country; Mr. Clarke in England; Mr. Rutherford, being an officer, moves

\* The office of lieutenant-governor requires no service, except on the death or in the absence of a governor-in-chief. It gives no rank in council, nor is there any salary annexed to it.

with the army, and sir William Johnson has his residence in the western part of the county of Albany.

The general assembly consists of twenty-seven representatives chosen by the people, in pursuance of a writ of summons issued by the governor.

At the day appointed for their appearance, such as are elected convene themselves at the assembly-chamber, in the city of New-York; and, by the clerk of the house, inform the governor of their meeting. If they are above thirteen in number, some persons (generally the judges of the supreme court) are sent to the assembly chamber empowered by a commission to take their oaths and subscriptions. They are then called before his excellency, who recommends their choice of a speaker. For that purpose they again retire, and conduct the person they elect into the chair, which is seated at the upper end of a long table. After that he is presented to his excellency, in the council chamber; and upon his approbation of their choice, which is of course, the speaker addresses himself to the governor, and in behalf of the house prays, "that their words and actions may have a favourable construction, that the members may have free access to him, and they and their servants be privileged with a freedom from arrests." The governor, after promising these things on his part, reads his speech to both houses; and, at the request of the speaker, delivers a copy for the use of the assembly.

I need not enlarge upon the customs of the general assembly, for they take the practice of the British House of Commons for their model, and vary from them in but very few instances. Money bills are not returned to them by the council board, as the lords do to the commons; and yet the reasons for this practice are much stronger here than at home. When the governor passes the bill sent up to him, both houses are present in the council chamber. It is then customary for him to ask the advice of his council with respect to every bill, and he signs them at the foot after these words, "I assent to this bill, enacting the same, and

order it to be enrolled." After that the acts are published in the open street, near the City-Hall ; his excellency and the two houses being present.

The daily wages of the representatives, as regulated by sundry acts of assembly, are annexed to the following list of the present members of the house.

*For the city and county of New-York*—Paul Richard, Henry Cruger, William Walton, John Watts, esqrs. ; each 6s. per diem.

*City and county of Albany*—Peter Winne, Peter Douw, esqrs. ; 10s. per diem.

*West-chester county*—John Thomas, Frederick Philipse, esqrs. ; 6s. per diem.

*Suffolk county*—Eleazer Miller, William Nicoll, esqrs. ; 9s. per diem.

*Queen's county*—David Jones, Thomas Cornel, esqrs. ; 6s. per diem.

*King's county*—Johannes Lott, Dominicus Vanderveer, esqrs. ; 6s. per diem.

*Ulster county*—Johannes Jansen, Moses De Pew, jun. esqrs. ; 6s. per diem.

*Richmond county*—William Walton, Benjamin Seamen, esqrs. ; 6s. per diem.

*Dutchess county*—Henry Beekman, Henry Filkin, esqrs. ; 6s. per diem.

*Orange county*—Theodorus Snediker, Samuel Gale, esqrs. ; 6s. per diem.

*Borough of West-chester*—Peter De Lancey, esq. ; 10s. per diem.

*Township of Schenectady*.—Jacobus Mynderse, esq. ; 10s. per diem.

*Manor of Renslaerwyck*—John B. V. Renslaer, esq. ; 10s. per diem.

*Manor of Livingston*—Robert Livingston, Jun. esq. ; 10s. per diem.

*Manor of Courtlandt*—Philip Ver Planck, esq. ; 6s. per diem.

The continuance of our assemblies was unlimited, till the political struggles, which took rise in Mr. Cosby's administration, forced Mr. Clarke, who succeeded him, to pass the act restricting them to three years : but this was repealed by the king, and a septennial law enacted soon after the arrival of governor Clinton, which is still in full force.

No colony upon the continent has formerly suffered more than ours, in the opinion of the king's ministers. This has been owing to the ill impressions made by our governors, who are scarce ever disengaged from disputes with the lower house. Our representatives, agreeably to the general sense of their constituents, are tenacious in their opinion, that the inhabitants of this colony are entitled to all the privileges of Englishmen ; that they have a right to participate in the legislative power, and that the session of assemblies here, is wisely substituted instead of a representation in parliament, which, all things considered, would, at this remote distance, be extremely inconvenient and dangerous. The governors, on the other hand, in general, entertain political sentiments of a quite different nature. All the immunities we enjoy, according to them, not only flow from, but absolutely depend upon, the mere grace and will of the crown.\* It is easy to conceive, that contentions must naturally attend such a contradiction of sentiments. Most of our disputes, however, relate to the support of government. Before lord Cornbury's embezzlements, the revenue was established for

\* "We are no more than a little corporation.—I would advise these gentlemen (assemblies) for the future, to drop those parliamentary airs and style about liberty and property, and keep within their sphere, and make the best use they can of his Majesty's instructions and commission ; because it would be high treason to sit and act without it.—This is our charter. If we abuse or make a wicked use of his majesty's favours, we are, of them, but tenants at will : we only hold them during pleasure and good behaviour."—These are the accurate and bright thoughts of the gentleman who published a pamphlet, entitled, "An essay on the government of the colonies," in 1752. Sir William Jones, attorney-general to James II. was of a very different opinion. For he told the king, "that he could no more grant a commission to levy money on his subjects in the plantations, without their consent by an assembly, than they could discharge themselves from their allegiance." Life of sir William Phips, p. 23.



a long period, but afterwards reduced to a few years. The violent measures in Mr. Cosby's time, led the assembly to the scheme of an annual provision. These are the words of that much famed address of the house, to lieutenant-governor Clarke, on the 8th of September, 1737, previous to the change.

"The true causes of the deficiency of the revenue, we believe, are too well known to your honour, to make it necessary for us to say much on that head. Had the conspicuous loyalty of the inhabitants of this province met with a suitable treatment in return: it is not unlikely, but we should now be weak enough to act like others before us, in being lavish beyond our abilities, and raising sums unnecessary to be given; and continued the donation, like them, for a longer time than what was convenient for the safety of the inhabitants: but experience has shown the imprudence of such a conduct; and the miserable condition to which the province is reduced, renders the raising of large sums very difficult if not impracticable. We therefore beg leave to be plain with your honour, and hope you will not take it amiss, when we tell you, that you are not to expect, that we either will raise sums unfit to be raised, or put what we shall raise into the power of a governor to misapply, if we can prevent it; nor shall we make up any other deficiencies, than what we conceive are fit and just to be paid; or continue what support or revenue we shall raise, for any longer time than one year. Nor do we think it convenient to do even that, until such laws are passed as we conceive necessary for the safety of the inhabitants of this colony, who have reposed a trust in us for that only purpose; and which we are sure you will think it reasonable we should act agreeable to, and by the grace of God we will endeavour not to deceive them."

The sentiments of this address still prevail among the people, and therefore the success of the present solicitations, for a permanent, indefinite support, will probably be in vain.

The matter has been often litigated with great fervency on both sides, and the example of the British parliament

urged as a precedent for our imitation. To this it is answered that the particular state of this province differs so widely from that of their mother country, that we ought not in this respect to follow the custom of the commons. Our constitution, as some observe, is so imperfect in numberless instances, that the rights of the people lie, even now, at the mere mercy of their governors; and granting a perpetual support, it is thought, would be in reality little less than the loss of every thing dear to them.

It must be confessed that many plausible arguments may be assigned, in support of the jealousy of the house. A governor has numberless opportunities, not proper to be mentioned, for invading the rights of the people, and insuperable difficulties would necessarily attend all the means of redress.

By gradual advances, at seasonable junctures, we might have introduced such amendments as would at this day have established a sound and well fortified political frame; but through our utter neglect of education, the ancient assemblies consisted of plain, illiterate, husbandmen, whose views seldom extended farther than to the regulation of highways, the destruction of wolves, wild cats, and foxes, and the advancement of the other little interests of the particular counties which they were chosen to represent.

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## CHAPTER VI.

### OF OUR LAWS AND COURTS.

The State of our laws opens a door to much controversy. The uncertainty with respect to them renders property precarious, and greatly exposes us to the arbitrary decisions of bad judges. The common law of England is generally received, together with such statutes as were enacted before we had a legislature of our own; but our courts exercise a sovereign authority, in determining what parts of the common and statute law ought to be extended; for it must be

admitted, that the difference of circumstances necessarily requires us, in some cases, to reject the determinations of both. In many instances they have also extended, as I have elsewhere observed, even acts of parliament, passed since we have had a distinct legislation, which is adding greatly to our confusion. The practice of our courts is not less uncertain than the law. Some of the English rules are adopted and others rejected. Two things therefore seem to be absolutely necessary for the public security.

*First*, The passing an act for settling the extent of the English laws ; and,

*Secondly*, That the courts ordain a general set of rules for the regulation of the practice.

To give a particular account of our laws civil and criminal, cannot be expected in this work. All lands are held of the crown by socage tenure, as those of East-Greenwich, at home, in the county of Kent ; and the manner of obtaining a title to such as are vacant, or in the possession of the Indians, is this :

Formerly the custom was to apply to the governor in council, for a license to purchase lands of the Natives in his Majesty's name. A deed was then privately obtained from the Indian proprietors to the king, and annexed to a second petition to the governor, for a warrant to the surveyor-general, to make a survey of the quantity purchased. Another warrant, upon the return of the survey, was then issued to the attorney-general, to prepare a draught of the patent ; which being transmitted to the secretary's office, was then engrossed upon parchment, and the great seal affixed to it by the governor.

In these surveys and deeds more lands were often included than the Indians intended to sell ; and these frauds being frequently complained of, an order was made by the governor and council, in 1736, that thenceforth no Indian deed should be taken, until the land proposed to be granted was actually surveyed by the surveyor-general, or one of his deputies, in the presence of the Indian proprietors : that the

bounds of the tract should be then entered in the deed, and a certificate endorsed, that they are agreeable to the survey, and that he saw the consideration money or goods, *bona fide* delivered to the venders. The patenting of lands has long been, and still continues to be, very expensive.

Our law judicatories are numerous; I begin with the lowest.

#### OF THE JUSTICES' COURT.

Justices of the peace are appointed by commission from the governors, who, to serve their purposes in elections, sometimes grant, as it is called, the administration to particular favorites in each county, which is the nomination of officers civil and military; and by these means, the justices have been astonishingly multiplied. There are instances of some who can neither write nor read.\* These Genii, besides their ordinary powers, are by acts of assembly enabled to hold courts for the determination of small causes of five pounds and under; but the parties are privileged, if they choose it, with a jury. The proceedings are in a summary way, and the conduct of the justices has given just cause to innumerable complaints. The justices have also a jurisdiction with respect to crimes under the degree of grand larceny; for any three of them (one being of the quorum) may try the criminal, without a jury, and inflict punishments not extending to life or limb.

#### THE SESSIONS AND COURT OF COMMON PLEAS.

The court of Common Pleas takes cognizance of all causes where the matter in demand is in value above five pounds. It is established by an ordinance of the governor in council. The judges are ordinarily three, and hold their offices during pleasure. Through the infancy of the country, few, if any of

\* Lord Bacon's observation, that there are many who count it a credit to be burdened with the office of a justice of the peace, is very applicable to us. Bacon's Works, fol. vol. II. p. 151.—The statute of 38 Hen. VIII. limited the number of justices to eight in a county.

them, are acquainted with the law. The practice of these courts is similar to that of the common-bench at Westminster. They have each a clerk, commissioned by the governor, who issues their writs, enters their minutes, and keeps the records of the county. They are held twice every year. These judges, together with some of the justices, hold, at the same time, a court of general sessions of the peace.

#### THE SUPREME COURT.

The jurisdiction of this court extends through the whole province, and its powers are very great. For it takes cognizance of all causes civil and criminal, as fully as the King's Bench and Common-Pleas at Westminster. In civil controversies, the value of the sum demanded must exceed twenty pounds. This court has four terms in a year, and always sits at New-York.\* The judges, for many years past, have been but three. The chief justice has ten shillings as a perquisite, upon the first motion in every cause, together with an annual allowance of £300. The second and third justices have also yearly appointments, too inconsiderable to be worth mentioning. They hold their offices by separate commissions under the great seal of the province, which were formerly during pleasure, but of late *quam diu se bene gesserint*.†

The Supreme Court was at first established by several laws of the province; but the terms were, afterwards, directed by an ordinance of the governor and council, which is alterable at pleasure.

Whether this court has a right to determine causes in a course of equity, was a question much litigated during the

\* The terms commence on the third Tuesdays in January, April, and October, and on the last in July. The first and the last continue five days, and the two other terms ten.

† Prosecutions by information are often commenced in the supreme court by order of the governor and council, and criminals sometimes committed by their warrants; for which reason some are of opinion, that the judges ought not to be members of that board, which is frequently the case.

troubles in the several administrations of Mr. Cosby and Mr. Clarke. Colonel Morris, afterwards governor of New-Jersey, sat then as chief justice upon the bench, and delivered a long, argumentative, opinion in the negative.\* The people were, in general, on that side, and the exchequer court bell scarce ever rung, but the city was all in confusion. Petitions against the court, from several parts of the province, came up to the assembly, who desired to hear council; and accordingly Mr. Smith and Mr. Murray, delivered their opinions at their request, both which were afterwards printed by their order. The former, who spoke first, urged numerous authorities, to prove that no court of equity could be legally established except by prescription or an act of the legislature, and concluded with these words:—" 'Tis with the greatest submission that I tender my opinion upon these points.—I have said nothing with a design to offend any man, nor have I omitted saying any thing, that I thought might tend to the public good. *Liberavi animam meam.* I have endeavoured to discharge the trust, and support the character, with which this house has honoured me. You have my sincere and real sentiments. If I have erred in any thing, it has been unwillingly. I am heartily a friend to this colony, and earnestly wish its prosperity. I have no interest in the points in question, but what are common to all the freemen of this province. I profess the greatest veneration for the laws of my country, and am glad of every opportunity to do them public honour. They place our liberties upon the firmest basis, and put our properties under the surest protection. I rejoice in the security that we have of a long enjoyment of them, by the settlement of the succession in the house of Hanover.—'Tis the excellency of our constitution, and the glory of our princes, that they are sovereign over

\* See the printed opinion, and the arguments of Messrs. Alexander and Smith for the defendant Van Dam adsectum the attorney-general; in support of a plea to the jurisdiction of the supreme court, on a bill filed there for governor Cosby in a course of equity. New-York, printed by John B. Zenger, 1733.

freemen, and not slaves. 'Tis the misery of an arbitrary government, that a man can enjoy nothing under it that he can call his own. Life, liberty, and property, are not his, but all at the will and disposal of his tyrannical owner. I don't wonder that our ancestors have been always so jealous of their liberties : how oft have they bravely fought, and nobly died, in the defence of them ? We have received our liberties and our laws, as an inheritance transmitted to us in the blood of our fathers. How highly therefore should we prize and value them ! And what care should we take, that we and our posterity may enjoy them in their full extent ? If this be our happy case, we shall sit under our own vines and our own fig-trees, and none will make us afraid. We shall see our country flourish, and ourselves a happy people. But if an arbitrary power over our liberties and properties be let in upon us, but at a back door, it will certainly drive many of us out of our habitations ; and 'tis to be feared, will once more reduce our country to a wilderness, and a land without inhabitant : which we doubt not but this honourable house will take care to prevent."

Mr. Murray laboured to show that the chancery, king's bench, common pleas, and exchequer, were of original jurisdiction by the constitution of England ; and was fearful that our establishment of these courts here by an act of assembly, would draw into question our equal rights to all the liberties and privileges of Englishmen. He closed his opinion in this manner :—

"And now, Mr. Speaker, I have in the best manner that I was capable of, performed what this honourable house desired of me, in giving truly my sentiments upon the subject matter of these petitions.

"Mr. Smith in delivering his sentiments last Friday, did in so handsome and elegant a manner, fully prove that the people of this colony are undoubtedly entitled to the customs, laws, liberties and privileges of Englishmen, that it was needless for me to attempt the proof thereof, which otherwise I should have done. But I do entirely agree with him, in all

that he said on that head ; and I hope I have proved that the fundamental courts, by the laws of England, are as much part of those liberties and privileges, and as much by the customs and laws of England, as any other of their liberties and privileges are ; and of consequence, the people here as much entitled to those fundamental courts, as to their other privileges ; and have endeavoured to answer all the objections that I had heard were, or thought could be, made against our being entitled to the same courts. And upon the whole thereof, as there has been much talked about the liberties and privileges of the people, I would beg leave only to propound this one question: Who is he that argues most in favour of the liberties of the people ? He who affirms and proves, that they are entitled to those liberties and privileges, laws and customs of England, and the good old original courts, that are by those laws, without an act ? Or he who argues and says, we are not entitled to them, until an act is passed to establish them ? I suppose the answer would be given, without hesitation, in favour of the former.

“ But, Mr. Speaker, if it yet should be said, that there is a necessity for making acts relating to those courts, I would beg leave to offer to this honourable house, the imitation of such laws relating to those courts, as the wise legislature of England have thought fit to make. I presume, it will not be said, there can be a better pattern offered for the assembly to go by. And it is not to be supposed, but that the parliament at home has made all the regulations therein that can be thought necessary ; whereas going into new schemes and new inventions, may be attended with many inconveniences, which, when they happen, may not be so easily remedied.

“ And I beg leave to conclude, by praying that God Almighty may guide, direct, and influence this honourable house in their debates and consultations upon this momentous affair, and that the end thereof may be for the good of all the inhabitants of this colony.”

The opposition to the exchequer became now stronger than before the council were heard. And therefore, under



these discouragements, the court has taken cognizance of no causes since Van Dam's, nor has that indeed ever been determined.\*

\* Sir John Randolph wrote his sentiments concerning these disputes to captain Pearse. And as he was an eminent lawyer, in Virginia, I doubt not his letter will be acceptable to the reader.

"SIR—By your request, I have perused and considered the arguments of Mr. Smith and Mr. Murray, before the General Assembly of New-York, in relation to the court of equity established there in a new court of exchequer; which I perceive was done, principally, for determining a dispute between the governor and the president of the council, about their right to the salary annexed to the office of the commander-in-chief, whether he be the governor or president; and it seems strange to me, that upon such an occasion, so extraordinary a step should be taken, as the erecting of a new court, exempted from the rules of proceeding at the common law, when the matter might have been decided in an action of the case upon an *Indebitatus assumpsit*, which is the settled method and most expeditious remedy in cases of that nature.

"Both of these gentlemen seem to have agreed in one point, that it was necessary to trace the court of chancery and the equity court in the exchequer back to their original institution, in order to show whether the governor of a new plantation hath a power or not to erect courts, in imitation of these high and ancient courts in England.—And from their researches, they seem to have made very different conclusions. Mr. Smith rightly concludes against the legality of this court; but Mr. Murray is afraid all must be lost, if the four fundamental courts, as he calls them, can't be obtained in New-York.—I own I don't understand the force of this sort of reasoning, nor can I conceive, how any inquiry into the original of the high court of chancery, which must after all end in a mere conjecture, can afford the least assistance, in forming a right judgment upon this question, which must depend upon the particular constitution of these foreign colonies.

"The court of chancery in England has its being from custom and usage, to which it owes its legality. If it were to be erected now by the king's power it could not stand; therefore it is undoubtedly a great absurdity to suppose, that upon the planting every new colony by the subjects of England, new courts must spring up, as it were from the roots of the ancient courts, and be established without the consent of the legislature, because we can imitate their methods of proceeding, though we are very imperfect in comparison to their reason and judgment. Then I think there is another impropriety in the debate of this question; they would argue from the power and prerogative of the king, to entitle the governor to act in the same manner. I think before they turn a governor into a king, they should take care, to provide for him the same sufficiency of wisdom and as able a council; therefore I must suppose, a mighty difference between the power of a king and the governors abroad. Their instructions as to the erecting of courts, or the authorities granted in their patents for that purpose, are not now, as they were in the beginning, when there were no courts; but proper judicatures being long since established, there is an

The judges of this court, according to an act of assembly, are judges of *Nisi Prius* of course; and agreeably to an ordinance of the governor and council, perform a circuit

end of their power in that respect, and if any alteration is found necessary, it must certainly be done by the consent of the legislature. The kings of England have always, so far as I am acquainted with the history of the plantations, used a particular tenderness in the business of erecting their courts of judicature, by directing their governors to take the advice of the general assemblies in that matter, and I dare say, that if the patents and instructions of the governor of New-York were to be inspected, no sufficient warrant will be found in them, to exercise this high power of setting up new courts. But be that as it will, this is most manifest, that setting up one or more men, with power to judge men's properties, by other rules than those of the common law, by which alone we of the plantations must be governed, must subject the estates of that people to an arbitrary rule, so far as they are restrained from appealing to an higher jurisdiction, and may enslave them to the weak, if not corrupt, judgments of those men. It really seems to be a singular misfortune to the people of New-York, that a question of this nature should be so far countenanced, as to become a subject of argument, when I believe, in any other colony, it would not have been thought a matter of any doubt or the least difficulty. But above all, it is most extravagant, that a court of equity should be erected, for the trial of a cause of which, without doing violence to its nature, it cannot have any jurisdiction; and I have wondered, in so warm a debate, that this point has been passed over. I think nothing could entitle the court of equity to proceed in the cause between the governor and Van Dam, unless there was a want of proof of Van Dam's receiving the money in dispute, which I suppose is impossible, since it must have issued out of the public treasury of the province. If I had been to have argued this point, I should have taken a very different method from those gentlemen. Instead of taking so much pains, in running through so many book cases, to settle what the constitution of England is, I would have stated the constitution of this particular government, as it is grounded either upon treaties or grants from the crown of England; for as New-York was a conquered country, it is very probable something may have been stipulated between the States General and the crown of England, in behalf of the subjects of Holland, which were left there in possession of their estates, and so became subjects to England. If there was any such treaty, that must be looked upon as the fundamental law of the province; and next to that, the king's charter must take place. I don't at all doubt, but some way or other, the common law was established there, and if not, as there is a legislature, I suppose it is adopted by the country; for there is, undoubtedly, a great difference between the people of a conquered country, and colonies reduced by the king's consent by the subjects of England. The common law follows them wherever they go, but as to the other, it must rise either from treaties or grants; therefore it is a pity every thing in relation to this matter has been omitted, which would have been of great use to those who are unacquainted with the facts, in forming a judgment in this case. I can't forbear observing a mighty weakness in the lawyers of New-York, in blindly

through the counties once every year. They carry with them, at the same time, a commission of oyer and terminer and general jail delivery, in which some of the county justices are joined.

The judges and practisers in the supreme, and all other courts, wear no peculiar habits as they do at Westminster-Hall and in some of the West-India islands; nor is there, as yet, any distinction or degrees among the lawyers.

The door of admission into the practice is too open. The usual preparatories are a college or university education, and three years' apprenticeship; or, without the former, seven years' service under an attorney. In either of these cases, the chief justice recommends the candidate to the governor, who thereupon grants a license to practise, under his hand and seal at arms. This being produced to the court, the usual state oaths and subscription are taken, together with an oath for his upright demeanour, and he is then qualified to practise in every court in the province. Into the county courts, attorneys are introduced with still less ceremony. For our governors have formerly licensed all persons, how indifferently soever recommended; and the profession has been shamefully disgraced by the admission of men not only of the meanest abilities, but of the lowest employments. The present judges of the supreme court are the honourable (for that is their title)

JAMES DE LANCEY, esq. chief justice.

JOHN CHAMBERS, esq. second justice.

DANIEL HORSMANDEN, esq. third justice.

They have but two clerks: one attendant upon the supreme

following a common error, in relation to the statutes of England being in force there; whereas there is no foundation in sense or reason for such an opinion. The common law must be the only rule, and if we wade into the statutes, no man can tell what the law is. It is certain all of them can't bind, and to know which do, was always above my capacity. Those that are declarative of the common law, serve us rather as evidences, than by any binding quality as statutes.

"I am, sir, your most obedient servant, &c.

"JOHN RANDOLPH."

court at New-York, and the other on the circuits. The former seals all their process and is keeper of the records.

#### THE COURT OF ADMIRALTY.

The only officers of this court are the judge, or commissary, the register and marshal. The present judge, Lewis Morris, esq. has, by his commission,\* a jurisdiction in all maritime affairs, not only here, but in the colonies of New-Jersey and Connecticut. The proceedings before him are in English, and according to the course of the civil law.

#### THE PREROGATIVE COURT.

The business of this court relates to the probate of last wills and testaments, and the grants of letters of administration on intestate estates. The powers relative to these matters are committed to the governor, who acts ordinarily by a delegate.

#### THE COURT OF THE GOVERNOR AND COUNCIL.

The authority of this court is best seen in the instruction on which it depends.

"Our will and pleasure is, that you, or the commander-in-chief of our said province, for the time being, do all in civil causes, on application being made to you, or the commander-in-chief for the time being, for that purpose, permit and allow appeals, from any of the courts of common law in our said province, unto you or the commander-in-chief, and the council of our said province; and you are, for that purpose, to issue a writ, in the manner which has been usually accustomed, returnable before yourself and the council of our said province, who are to proceed to hear and determine such appeal; wherein such of our said council, as shall be at that time judges of the court from whence such appeal shall be so made, to you our captain-general, or to the commander-in-chief for the time being, and to our said council, as aforesaid,

\* It is under the seal of the admiralty, and dated January 16, 1738.

shall not be admitted to vote upon the said appeal; but they may, nevertheless, be present at the hearing thereof, to give the reasons of the judgment given by them, in the causes wherein such appeals shall be made.

"Provided nevertheless, that in all such appeals, the sum or value appealed for, to exceed the sum of\* three hundred pounds sterling; and that security be first duly given by the appellant, to answer such charges as shall be awarded, in case the first sentence be affirmed; and if either party shall not rest satisfied with the judgment of you, or the commander-in-chief for the time being, and council as aforesaid, our will and pleasure is, that they may then appeal unto us in our privy council. Provided the sum or value so appealed for unto us, exceed five hundred pounds sterling, and that such appeal be made within fourteen days after sentence, and good security given by the appellant, that he will effectually prosecute the same and answer the condemnation, and also pay such costs and damages as shall be awarded by us, in case the sentence of you, or the commander-in-chief for the time being, and council be affirmed. Provided nevertheless, where the matter in question relates to the taking or demanding any duty payable to us, or to any fee of office, or annual rent, or other such like matter or thing, where the rights in future may be bound, in all such cases, you are to admit an appeal to us in our privy council, though the immediate sum or value appealed for be of a less value. And it is our further will and pleasure, that in all cases where, by your instructions, you are to admit appeals to us in our privy council, execution be suspended, until the final determination of such appeals, unless good and sufficient security be

\* Before the arrival of sir Danvers Osborn, appeals were given to the governor and council, in all causes above £100 sterling, and to the king in council, in all those above £300 sterling. By this instruction, the power of the supreme court and of the governor and council, is prodigiously augmented. In this infant country few contracts are equal to the sums mentioned in the instruction, and therefore an uncontrollable authority in our courts may be dangerous to the property and liberties of the people. Proper checks upon judges preserve them both from indolence and corruption.

given by the appellee, to make ample restitution of all that the appellant shall have lost by means of such judgment or decree, in case upon the determination of such appeal, such decree or judgment should be reversed, and restitution awarded to the appellant."

#### THE COURT OF CHANCERY.

Of all our courts, none has been more obnoxious to the people than this. There have been (as I have already shown) few administrations since its first erection, in which our assemblies have not expressed their disapprobation of its constitution by ordinance, and the exercise of the chancellor's power by the governor. During the administration of Governor Cosby, a bill was filed by sir Joseph Eyles and others, to vacate the oblong patent granted by his immediate predecessor to Hauley & Company. The defendants excepted to the governor's jurisdiction, but being over-ruled they resorted to the assembly with a complaint, and the house, on the 6th of November, 1735, resolved,

"That a court of chancery in this province, in the hands or under the exercise of a governor, without consent in general assembly, is contrary to law, unwarrantable, and of dangerous consequences to the liberties and properties of the people."

The same sentiments obtained among the people in Mr. Clarke's time, as is very evident in the memorable address of the assembly, in 1737, a part of which, relative to the court of chancery, is too singular to be suppressed.

"The settling and establishing of courts of general jurisdiction, for the due administration of justice is necessary in every country, and we conceive they ought to be settled and established, by the acts of the whole legislature, and their several jurisdictions and powers by that authority limited and appointed, especially courts that are to take cognizance of matters in a course of equity. This has been the constant practice in England, when new courts were to be erected, or old ones to be abolished or altered; and the several kings of

England, in whose reigns those acts were made, never conceived, that the settling, erecting, or abolishing courts, by acts of the legislature, had any tendency to destroy or in the least to diminish their just and legal prerogatives. It was the method in use here, both before and since the revolution, and particularly recommended to the assembly to be done in that manner, by a message from governor Sloughter and council, on the 15th day of April, 1691. He was the first governor since the revolution; and the governors that since that time assented to those acts, we suppose, never in the least imagined they were giving up the prerogative of their masters when they gave that assent; nor did we ever learn that they were censured for doing so.—On the contrary, the constant instructions that have from time to time been given to the governors of this province, seem clearly to point out the doing of it by acts of the legislature, and not otherwise, as may be gathered from the instruction for the erecting of a court for the determining of small causes, by which there are positive directions given to the governors, to recommend it to the assembly that a law should be passed for that purpose; but notwithstanding these directions, given in direct and express terms, the governors never would apply for such an act, but erected that court by an ordinance of themselves and council, as they did the court of chancery, which had before that time been erected by acts of the legislature in another manner. They could not be ignorant what dissatisfaction the erecting of a court of chancery in that manner gave the generality of the people. This was very manifest by the resolves of the general assembly at the time of its first being so erected, and often since, declaring the illegality of such a proceeding. And though these resolves have been, as often as made, treated by the governors with an unreasonable disregard and contempt of them, yet to men of prudence they might have been effectual, to have made them decline persisting in a procedure so illegal, and so generally dissatisfactory; and which (as they managed it) proved of no use to the public or benefit to themselves. For

as few of them had talents equal to the task of a chancellor, which they had undertaken to perform, so it was executed accordingly. Some of them being willing to hold such a court, others not, accordingly as they happened to be influenced by those about them. So that were it really established in the most legal manner, (as it was not,) yet being in the hands of a person not compellable to do his duty, it was so managed, that the extraordinary delays and fruitless expense attending it, rendered it not only useless, but a grievance to the inhabitants, especially those who were so unfortunate as to be concerned in it: which we hope you think with us, that it is high time should be redressed.

"Your honour well knows that the establishing that court, in the manner it has been done, has been a subject of contention between the governors and the assembly; and since it is confessed by all, that the establishing both of that, and other courts, by act of the legislature, is indisputably legal, and gives them the most incontrovertible authority; and, if unquestionably legal, what is so cannot be destructive of his majesty's prerogative. We therefore hope, you will make no scruple of assenting to this bill, to put an end to the contention, that has not been, nor will be, while it continues, beneficial to his majesty's service."

From this time the chancery has been unattacked by the assembly, but the business transacted in it is very inconsiderable. A court of equity is absolutely necessary, for the due administration of justice; but whether private property ought to be in the hands of the governors, I leave others to determine.\* As the public business of the colony increases, few of them, I believe, will be ambitious of the chancellor's office, as they have not the assistance of a master of the rolls. The present officers of this court (which is always held in the council-chamber at the fort) are, his excellency, sir Charles Hardy, knt. chancellor, two masters, two clerks, one examiner, a register, and a sergeant-at-arms, and not

\* Some are of opinion, that the governor's jurisdiction in this and the spiritual, or prerogative court, are incompatible.



one of them has a salary. In our proceedings we copy after the chancery in England, and indeed in all our courts, the practice at home is more nearly imitated in this and New-Jersey, than in any other province upon the continent. Few of our assemblies have been capable to concert any new regulations of this kind; and hence the lawyers have had recourse to the English customs and forms, which they have generally adopted. While the New-England colonies, through the superior education of their representatives, have introduced numberless innovations peculiar to themselves, the laws of our mother country have gradually obtained here, and in this respect, the public has perhaps received advantages, even from the ignorance of our ancestors.

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## NOTES.

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## NOTES.

### NOTE A.—Page 2.

CHARLEVOIX, a French jesuit, author of the General History of New France, thinks the discovery of New-York and Hudson's river was in 1609; but Stith, Douglass, Oldmixon, and other English writers agree, that Hudson's first voyage was in the preceding year. It was thought to be a demonstration of a discovery of the country before this period, that the marks of a hatchet were found on the body of a tree in the spring of 1775, which had been made in 1590. The block was brought to town and shown to the author. But the discoverer abused the value he had set upon this curiosity, to whom I observed, that the Indians, upon the authority of Stith's history, might have got the instrument from Canada, where Targues Carteu, according to De Laet, the discoverer, had watered in 1536, at St. Croix, a little above Quebec, and afterwards revisited the St. Lawrence in 1540 with five ships, and continued the crew at Chaslebourg, above St. Croix, to 1542, or from the English who came first to Wococon, or Ococock, to the southward of Cape Hatteras, on the second of July, 1582, and a few days after entered Albemarle Sound. That they returned to it under Sir Richard Grenville on the 26th May, 1585, who, on his return that summer to England, left about one hundred persons at Roanoke, who expanded themselves southward and northward, and had dealings with the Indians above one hundred and thirty miles northwest into their country. That Sir Francis Drake visited the new colony in 1586, after burning St. Antony Urena, in Florida, where he found the Spaniards had commenced settlements. That Sir Richard Grenville revisited that country the same year, and Capt. White with his company the next; and that in 1588 Sir Walter Raleigh had then expended forty thousand pounds upon the enterprise for planting a colony under the name of Virginia.—Sir Thomas Smith's company, after Raleigh's assignment, arrived August the 3d, 1590, the year designated on the block. Mr. Robert Yates, the surveyor, who brought it to town, gave me the following certificate of the discovery in a letter dated May the 3d, 1775:

"Sir: In the course of the survey of the patent granted in the year 1672, to Van Hendrichy Van Baale, in the county of Albany, as claimed by the proprietors thereof, the surveyors were particularly directed by the arbitrators appointed for the determination of its contested boundaries to bore the marked trees standing on and at some distance from the lines. In consequence of it a num-

ber of trees were bored; several whereof appeared to be cut or marked, whose respective ages, upon ascertaining the streaks grown over such marks, counted from 110 to 140 years. But what more particularly strikes my attention, and to which I can find no satisfactory solution is, that at the distance of about one mile south-west from a hill called Kych-Uyt, in a pine wilderness, remote from any settlement, one of the axe-men, for the sake of keeping him in employ, was ordered, on the seventh March, 1775, to cut a pitch pine tree of about two feet diameter, whereon there was little, if any, appearance of a mark—about six inches in the tree a cut or mark was discovered and the block taken out. In splitting it with the grain it opened to our view several cuts of an axe or other sharp iron tool, the dents whereof appeared as fresh and new as if the mark had been made within a year. In counting of the rings or streaks grown over these marks, it amounted to one hundred and eighty-five, so that the cut was made in the year 1590, at least 17 years before Hudson's discovery of this country. It is well known that the natives had no iron tools before their acquaintance and intercourse with the Europeans, and it is this circumstance that involves me in the difficulty of accounting for its mark at that early period. Proof of the number of streaks grown over marks has often in our courts been allowed to ascertain its age. I have, therefore, been at some pains to discover its certainty, and can, from my own experience, declare that it amounts to demonstration.—Among the variety of instances, the two following are the most remarkable:—In the year 1762, I was present when a number of trees were marked on the survey of the township of Kinderhook. In the year 1772, I re-surveyed these lines, and ordered several of those marks to be opened, and thereupon found that all those trees, though of different kinds, invariably counted ten streaks above the marks. I have, also, been employed in the year 1768 to re-survey the bounds of a patent, which appeared by the deputy surveyor's return to have been originally laid out for the patentee in the year 1738: to satisfy myself as to the certainty of the trees which were shown me as marked on his survey, I bored a beach tree, whereon the initial letters of his name appeared standing in the corner of one of the sides, and found that the streaks above it counted exactly thirty.

I am, sir, your most obedient servant,

New-York, May 3, 1775.

ROBERT YATES.

On inspecting the block, I observed that the rings of growth differed in their distance from each other, probably according to the variety of the years as more or less favorable. But if the age of the tree is to be computed by the fourth part of its diameter acquired in one hundred and eighty-five years, and was consequently for twenty-four inches over seven hundred and forty years old, how venerable our forests of pine in which there are many trees of from three to four feet in diameter, which must then be from one thousand to near fifteen hundred years old; and how many more they continue at a stand and on the decline before they fall, none can presume. The land most abounding with pine is light, dry and sandy, and where the trunks have rotted away they have knots which no weather seems to affect; yet in the repletion of the interstices with resin or an unctuous substance that is very inflammable, and which the country people collect and use for lights to work by in long winter evenings.—These are found where there is not the least appearance of a hillock for the trunk to which they originally belonged, and this leads to as remote antiquity for

their first formation as for rocks and other permanent substances. Pliny says, "*Vita arborum quærundarum immensa credi potest*," but he mentions no species of trees with certainty of an age equal to what we conjecture of the American fir commonly called pitch pine. There is a white pine tree on the banks of Batton creek, in the township of Cambridge, in this province, of the diameter of seven feet. No fir as yet discovered exceeds four.

#### NOTE B.—Page 3.

The pamphlet is entitled, "*Beschryvinghevan Virginia, Nieuw Nederland*," &c. and was printed at Amsterdam in 1651. It contains two descriptions of the Dutch possessions. The first is a copy of that published by John De Laet, at Leyden. The second gives a view of this country several years after, in 1649. A short representation of the country of the Mahakuse Indians, written in 1644, by John Megapolensis, jun. a Dutch minister residing here, is annexed to that part of the pamphlet concerning New-Netherland.

#### NOTE C.—Page 5.

The anonymous Dutch author of the description of New-Netherland in 1649, calls him Minnewits; and adds, that in 1638 he arrived at Delaware with two vessels, pretending that he touched for refreshment in his way to the West-Indies; but that he soon threw off the disguise, by employizg his men in erecting a fort. The same historian informs us of the murder of several Dutch men at South River, by the Indians, occasioned by a quarrel, concerning the taking away the States' Arms, which the former had erected at the first discovery of the country; in resenting which, an Indian had been killed. If Kieft's letter alludes to this affair, then Minuit preceded Van Twiller, in the chief command here; and being perhaps disoblged by the Dutch, entered into the service of the queen of Sweden.

#### NOTE D.—Page 7.

The war between Cromwell and the States, which began July, 1652, was concluded by a peace on the fifth of April, 1654. The treaty makes no particular mention of this country. If any part of it can be considered as relating to the American possessions, it is to be found in the two first articles, which are in these words: "Imprimis, it is agreed and concluded, that, from this day forwards, there be a true, firm, and inviolable peace, a sincere, intimate and close friendship, affinity, confederacy, and union, betwixt the republic of England and the States General of the United Provinces of the Netherlands, and the land, countries, cities, and towns, under the dominions of each, without distinction of places, together with their people and inhabitants of whatsoever degree."

II. "That hereafter all enmity, hostility, discord, and contention, betwixt the said republics, and their people and subjects, shall cease, and both parties shall henceforwards abstain from the committing all manner of mischief, plunder, and injuries, by land, by sea, and on the fresh waters, in all their lands countries, dominions, places, and governments whatsoever."

#### NOTE E.—Page 26.

It was in these words: "Forasmuch as his majesty hath sent us (by commission under his great seal of England,) amongst other things, to expel, or to

reduce to his majesty's obedience, all such foreigners as without his majesty's leave and consent, have seated themselves amongst any of his dominions in America, to the prejudice of his majesty's subjects and diminution of his royal dignity, we, his said majesty's commissioners, do declare and promise, that whosoever, of what nation soever, will, upon knowledge of this proclamation, acknowledge and testify themselves, to submit to this his majesty's government, as his good subjects, shall be protected in his majesty's laws and justice, and peaceably enjoy whatsoever God's blessing and their own honest industry have furnished them with; and all other privileges with his majesty's English subjects. We have caused this to be published, that we might prevent all inconveniences to others, if it were possible; however, to clear ourselves from the charge of all those miseries that may any way befall such as live here, and will acknowledge his majesty for their sovereign, whom God preserve."

NOTE F.—Page 47.

The Court of Assizes was one both of law and equity, for the trial of causes of £20, and upwards, and ordinarily sat but once a year; subordinate to this were the town courts and sessions; the former took cognizance of actions under £5, and the latter of suits between that sum and twenty pounds: seven constables and overseers were judges in the first, and in the last the justices of the peace, with a jury of seven men. The verdict of the majority was sufficient.

NOTE G.—Page 49.

Another reason is assigned for the favour Renslaer met with from the crown. It is said, that while Charles II. was an exile, he predicted the day of his restoration. The people of Albany had a high opinion of his prophetic spirit, and many strange tales about him still prevail there. The parson made nothing of his claim, the manor being afterwards granted by Colonel Dongan to Killian Van Renslaer, a distant relation. This extensive tract, by the Dutch called a colony, is an oblong extending twenty-four miles upon Hudson's river, and as many on each side. The patent of confirmation was issued by special direction from the king, and is the most liberal in the privileges it grants of any one in the province.

NOTE H.—Page 63.

The amazing falsehoods and gross misrepresentations of the missionaries are notorious to all who give themselves the trouble of perusing the abstracts of their accounts published in England. It would be a very agreeable office to me, on this occasion, to distinguish the innocent from the guilty, but that such a task would infallibly raise up a host of enemies. Many of the missionaries are men of learning and exemplary morals. Those in America are known and honoured, and cannot be prejudiced by an indiscriminate censure. Their joining in a representation for distinguishing the delinquents, who are a disgrace to the cloth, will serve as a full vindication of themselves to the society. Mr. Ogilvie is, I believe, the only person now employed among the Indians by the English Society for Propagating the Gospel, and the greatest part even of his charge is in the city of Albany. All the Scotch missionaries are among the heathen, and their success has been sufficient to encourage any future attempts. There is a regular society of Indian converts in New-Jersey: and it is worthy of

remark, that not one of them has apostatized into heathenism. Some of them have made such proficiencies in practical religion, as ought to shame many of us, who boast the illuminating age of our native christianity. Not one of these Indians has been concerned in these barbarous irruptions, which have lately deluged the frontiers of the south-western provinces, with the blood of several hundred innocents of every age and sex. At the commencement of these ravages, they flew into the settlements, and put themselves under the protection of the government. These Indians no sooner became christians, than they openly professed their loyalty to king George; and, therefore, to contribute to their conversion was as truly politic as nobly christian. Those colonies which have done *most* for this charitable design, have escaped *best* from the late distressing calamities. Of all the missionaries, Mr. David Brainerd, who recovered these Indians from the darkness of Paganism, was most successful. He died the 9th of October, 1747, a victim to his extreme mortification and inextinguishable zeal for the prosperity of his mission. Those who are curious to inquire particularly into the effects of his indefatigable industry, may have recourse to his journal, published at Philadelphia, by the American correspondents of the Scotch society, in whose service he was employed. Dr. Douglass, ever ready to do honour to his native country, after remarking that this self-denying clergyman rode about 4000 miles in the year 1744, with an air of approbation, asks, "Is there any missionary from any of the societies for propagating the gospel in foreign parts, that has reported the like?"

## NOTE I.—Page 92.

The following was the declaration of Leisler, signed the 3d of June, 1689:—"Whereas our intention tended only but to the preservation of the protestant religion, and the fort of this city, to the end that we may avoid and prevent the rash judgment of the world, in so just a design, we have thought fit to let every body know by these public proclamation, that till the safe arryvell of the ships, that we expect every day, from his royal highness the prince of Orange, with orders for the government of this country in the behalf of such person as the said royal highness had chosen, and honoured with the charge of a governor, that as soon as the bearer of the said orders shall have let us see his power, then, and without any delay, we shall execute the said orders punctually; declaring that we do intend to submit and obey, not only the said orders, but also the bearer thereof, committed for the execution of the same. In witness hereof, we have signed these presents, the 3d of June, 1689."

## NOTE K.—Page 161.

The preamble of the act, suggested without doubt by the parties interested in its success, gives a history which no person in England was concerned to contradict. Mrs. Farmer, a descendant from Leisler, sent me a copy of the statute in July, 1759. It may serve to show the propriety of calling for a report of facts which have happened at a distance, before final resolutions are taken upon them.

"*An Act for reversing the Attainder of Jacob Leisler and others.*—WHEREAS, in the late happy revolution, the inhabitants of the province of New-York, in America, did, in their general assembly, constitute and appoint captain Jacob



Leisler to be commander-in-chief of the said province, until their majesties' pleasure should be known therein. And the said Jacob Leisler was afterwards confirmed in the said command by his majesty's letter, dated the thirtieth day of July, one thousand six hundred and eighty-nine; and the said Jacob Leisler having the administration of the said government of New-York, by virtue of the said power and authority so given and confirmed to him as aforesaid, and being in the exercise thereof, captain Richard Ingoldsby arriving in the said province, in the month of January, Anno Domini one thousand six hundred and ninety, did, without producing any legal authority, demand of the said Jacob Leisler the possession of the fort at New-York; but the said Jacob Leisler, pursuant to the trust in him reposed, refusing to surrender the said fort into the hands of the said Richard Ingoldsby, kept the possession thereof until the month of March then next following, at which time colonel Henry Sloughter being constituted captain-general and governor-in-chief of the province, arrived there in the evening, and the said Jacob Leisler having notice thereof, that same night (though very late) took care to deliver the said fort to his order, which was done very early the next morning.

"And whereas the said Jacob Leisler, also Jacob Milborne, Abraham Gouverneur, and several others, were arraigned in the Supreme Court of Judicature at New-York aforesaid, and convicted and attainted of high treason and felony, for not delivering the possession of the said fort to the said Richard Ingoldsby, and the said Jacob Leisler and Jacob Milborne were executed for the same. May it therefore please your most excellent majesty, at the humble petition and request of Jacob Leisler, the son and heir of the said Jacob Leisler, deceased, Jacob Milborne, the son and heir of the said Jacob Milborne, deceased, and of the said Jacob Gouverneur, that it be declared and enacted,

"*And be it enacted*, by the king's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal and commons in this present parliament assembled, and by the authority of the same, that the said several convictions, judgments and attainders of the said Jacob Leisler, deceased, Jacob Milborne, deceased, and the said Abraham Gouverneur, and every of them, be and are repealed, reversed, made and declared null and void to all intents, constructions, and purposes whatsoever, as if no such convictions, judgments, or attainders, had ever been had or given; and that no corruption of blood, or other penalties, or forfeitures of goods, chattels, lands, tenements, hereditaments, be by the said convictions and attainders, or either of them, incurred, any said usage or custom to the contrary notwithstanding."

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